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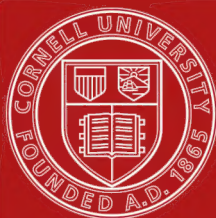
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THE
AMERICAN STATESMAN:

A POLITICAL HISTORY,

EXHIBITING THE

ORIGIN, NATURE AND PRACTICAL OPERATION OF CONSTITUTIONAL
GOVERNMENT IN THE UNITED STATES;

THE RISE AND PROGRESS OF PARTIES;

AND THE

VIEWS OF DISTINGUISHED STATESMEN ON QUESTIONS OF FOREIGN
AND DOMESTIC POLICY;

BROUGHT DOWN TO THE PRESENT TIME:

WITH AN APPENDIX,

CONTAINING

Explanatory Notes, Political Essays, Statistical Information,

AND OTHER USEFUL MATTER.

BY ANDREW W. YOUNG,

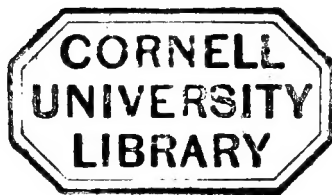
AUTHOR OF "SCIENCE OF GOVERNMENT," "FIRST LESSONS IN CIVIL GOVERNMENT," "CITIZEN'S
MANUAL OF GOVERNMENT AND LAW"

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P R E F A C E

THE general diffusion of political knowledge is essential to public prosperity, and to the security of our liberties. A government, whatever its form, is not really free, when its theory and practical operation are not understood by the great body of those from whom its powers are derived. Universal suffrage is valuable only as its exercise is directed by an enlightened public sentiment.

While these propositions are universally acknowledged as self-evident truths, it must be confessed, that the knowledge of our government is too limited to secure the uninterrupted enjoyment of the benefits of good administration. A large portion of our citizens assume the duties and responsibilities of freemen, without the information requisite to a faithful discharge of these vast responsibilities devolved upon them by the constitution and laws. Many of them, ambitious of civil honors, accept important public trusts, with attainments in political science too circumscribed to enable them to render efficient service to the state, or to gain to themselves an honorable distinction. In the character and acts of many of our legislative bodies, does the truth of this remark find abundant confirmation.

The design of this work is to bring within the reach of our citizens generally, in a single volume, the greatest possible amount of that kind of information which all ought to possess ; but which is to be obtained elsewhere only in works so voluminous and expensive as to render it inaccessible to the greater portion of the community.

A prominent and essential feature of the work is, that on all controverted questions, whether involving constitutional prin-

ciples, or mere considerations of expediency, the substance of the arguments on both sides has been faithfully and impartially given. On subjects of party controversy, the author has withheld the expression of his own opinions, deeming it best to leave the unconfirmed politician to the exercise of his own unbiased judgment in forming his conclusions. By thus presenting the different views of our ablest statesmen, the work will be rendered valuable to the political student as a constitutional expositor, and as a guide to the formation of enlightened opinions on questions of public policy ; while to the more advanced politician, the great variety of its matter will make it convenient and useful as a book of reference.

Neither the capacity nor the design of this work, has permitted the introduction of local politics. The selection of matter has been almost exclusively confined to subjects of a *national* character. Notwithstanding the volume has been swelled far beyond its intended size—embracing most of the principal subjects of our political history—much useful and interesting matter has been necessarily passed over, which may hereafter appear in a supplementary volume.

It has been an object of much care to make the work a reliable one. Its statements are founded principally upon the official records of the government. In the condensation of speeches, reports, and other documents, pains have been taken to present their strongest points, as well as their true meaning. Where recourse to other sources of information has been necessary, reference has been had to approved and standard works, among which are those of Marshall, Pitkin, Bancroft, Hildreth, and others.

That the work, nevertheless, contains some slight inaccuracies, is not improbable. It is believed, however, that it will be found free from material errors ; and that it will be acknowledged to possess claims to the public favor, and conduce in some good degree, to a higher and a more general appreciation of our political institutions.

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THE AMERICAN STATESMAN.

CHAPTER I.

THE SETTLEMENT OF THE COLONIES, AND THEIR FORMS OF GOVERNMENT.

THE establishment of republican institutions in this country constitutes a new era in the history of civil government. To America belongs the honor of having presented to the world the first system of constitutional government founded upon political equality and the general consent of the people. Most governments had been the creatures of accident, or of the concurrence of unforeseen events, rather than the result of design. Liberty was enjoyed only as it had been wrested from the grasp of tyranny, or as it had been reluctantly granted to silence the popular clamor, or to prevent rebellion. Chartered governments, called republics, had indeed existed; but they conferred only a partial franchise and limited civil privileges. The political system of the United States is the result of forethought and mature deliberation, and derives its authority from the true source of power, the WHOLE PEOPLE: and its crowning excellence—its chief conservative principle—is its recognition of the paramount authority of the DIVINE WILL.

Constitutional liberty based upon these principles, is of a date long anterior to that of our national or any state constitution formed since the establishment of our national independence. It had its origin in the cabin of the Mayflower before the pilgrim immigrants had effected their landing. The constituent elements of the "compact," then and there formed, were early introduced into the governments of the colonies, especially those of New England.

Of the forms of government which prevailed in the colonies, there were three: the charter, the royal or provincial, and the proprietary governments.

The *charter* governments existed only in New England. These charters, or grants of the crown, conferred on the colonists not only a right to the soil, but the privileges of natural born subjects. They elected their own governors and legislative assemblies, and established courts of justice. The legislative power was ample, its only limitation was, that the laws enacted should not be contrary to those of England.

During the attempts of the British Government, in the reign of Charles I, to enforce conformity to the established church, a number of people, to avoid prosecution under these laws, and to enjoy freedom of conscience in matters of religion, removed to Holland. In 1619, these persons determined to remove to North America; and in the following year they embarked on a voyage with a design of settlement on the Hudson, within the limits of the London, or South Virginia company, and for this purpose they had obtained a charter from this company. But by accident, as some suppose, or, as is generally believed, by the treachery of the Dutch, who themselves had contemplated settling on the Hudson, and who bribed the pilot to land them north of the Hudson, they were taken to the coast of Cape Cod, where they arrived on the 9th of November, 1620. The story of their having been carried thither against their wishes or intention, rests, however, on doubtful authority. They were called *Puritans*, a name given to those who dissented from the established church because they wished for a purer form of discipline and worship; some of the ancient Romish ceremonies being still continued in that church.

Not having contemplated any plantation within the limits of the Plymouth company, they had not obtained from them any charter. Being therefore destitute of any right to the soil, and without any powers of government derived from the proper authority, on the 11th of November, before they landed, they drew up and signed the following compact, or constitution :

"In the name of God, amen.—We, whose names are under-written, the loyal subjects of our dread sovereign lord King James, &c., having undertaken, for the glory of God, the advancement of the Christian faith, and honor of our king and country, a voyage to plant the first colony in the northern parts of Virginia, do by these presents, solemnly and mutually, in the presence of God, and of one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute and frame, such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the good of the colony; unto which we promise all due submission and obedience."

This was the earliest American constitution, and in substance a pure democracy. It was signed by 41 persons. The whole company, including women and children, numbered 101.

Having settled a social contract, they proceeded to examine the coast, and finally determined to settle at a place which they called Plymouth, after the name of the company owning the soil. They landed on the 23d of December, and commenced the first permanent settlement in New England. For ten years, the colonists held their property in common, when they obtained from the company a grant of the land. The government of the colony was administered by a governor and seven assistants, all chosen by the people annually. Being a pure democracy, the people, in general meeting, often decided upon both legislative and executive affairs. In 1639, their numbers having become such as to render deliberation in full assembly inconvenient, the representative system was adopted.

In 1628, the Massachusetts colony was settled by a company, (also Puritans,) incorporated by royal charter, the land having been previously purchased of the Plymouth company. In 1630, the powers of government were transferred from the crown to the colonists, who had power to elect annually a governor, a deputy-governor, and eighteen assistants. In 1634, the people claimed the right of representation, which, though unauthorized by the charter, was generally assented to; and two or three deputies were chosen from each plantation, to represent the people in the general court. The governor, or, in his absence, the deputy-governor, the assistants, or at least six of them, and the body of freemen, constituted a general court, by which the powers of government were to be exercised. The claiming by the former, (the assistants,) of a right to negative the acts of the latter, caused frequent disputes between them, until 1644, when by mutual agreement, the legislature was to consist of two separate bodies, having a negative upon each other.

In New Hampshire the first permanent settlement was made in 1631 at and near Portsmouth, although a few huts had been erected a few years earlier, by fishermen, along the coast eastward from Merrimack. No organized government seems to have been established until several years afterward; and in 1641, Massachusetts, having previously asserted a right over this part of the territory, declared the inhabitants to be within her jurisdiction, leaving them, however, to participate in all their rights, and exempting them from all public charges, except such as should arise on their own account. After a temporary protection from Massachusetts, New Hampshire became an independent colony.

Connecticut was settled in 1635, by persons from Massachusetts. The colonists were for several years governed by magistrates appointed

by the legislature of Massachusetts, with the advice of committees from the towns, with whom they were associated on important occasions. But, not being within the limits of the charter of Massachusetts, they formed, in 1639, a government for themselves. The settlements were at this time confined to three towns, Hartford, Wethersfield, and Windsor, containing a population of about 800. By this constitution, the legislative power was vested in the general assembly, consisting of a governor, six magistrates, and the representatives of the towns, all of whom were elected annually by the great body of freemen. The governor was chosen from the magistrates: he presided in the assembly, and had a casting vote.

These colonists, like those of the Plymouth colony, were many years without a charter, holding the soil by mere occupancy, except such portions as they acquired by purchase or conquest of the natives, and being governed by themselves. In 1662, a charter was granted by Charles II., which adopted the most essential parts of their free constitution. In 1698, the general assembly was divided into two branches. The magistrates or assistants, with the governor as president, constituted the upper house; and the representatives the lower house; and each had a negative on the acts of the other.

The colony of New Haven was settled in 1637, by a small company of persons from England. The people of this colony also, having no charter, formed themselves into a body politic, and established a form of civil and church government. The government was administered by a governor and a few magistrates. These and other officers were elected by those only who were in church fellowship. In 1643, representatives from the towns were associated with the governor and magistrates in the general court, as in Connecticut, with which it became united in the charter of 1662.

Rhode Island was settled at the same time as Connecticut. Roger Williams, a minister at Salem, in Massachusetts, for teaching what were regarded by his brethren as erroneous religious doctrines, was banished from the colonies, and with a few followers, commenced a settlement at Providence. In the civil compact, they agreed "to submit themselves in active and passive obedience, to all such orders and agreements as should be made for the public good of the body, in an orderly way, by major consent of the inhabitants." In 1640, a plan of government better adapted to their circumstances, was adopted. The Providence and Rhode Island plantations were at first two distinct colonies. The settlement at Rhode Island was the result of a cause similar to that which led to the settlement of Providence. In 1638, a number of the most prominent advocates and propagators of the Antinomian heresy, which

arose about that time in Massachusetts, were ordered to leave the colony, and having, by the assistance of Mr. Williams, purchased the island of the Indians, commenced a settlement, having entered into the following compact, signed by eighteen persons:

"We, whose names are underwritten, do hereby solemnly, in the presence of Jehovah, incorporate ourselves into a body politic, and as He shall help, will submit our persons, lives, and estates, unto our Lord Jesus Christ, the King of kings, and Lord of lords, and to all those perfect and absolute laws of his, given in his Holy Word of truth, to be judged and guided thereby."

The ruling power was subsequently vested in a governor, a deputy-governor, and five assistants. And in 1641, the government was declared to be a democracy, and the power to be in the body of freemen, orderly assembled, or a major part of them, to make or constitute just laws, and to depute from among them such ministers as should see them faithfully executed. And none were to be accounted delinquent for doctrine, provided it were not directly repugnant to the established government and laws.

In 1644, the two plantations were united in a charter obtained by Roger Williams, who had been sent to England for that purpose. The charter granted to the inhabitants "full power and authority to rule themselves, by such a form of civil government, as by voluntary consent of all, or the greater part of them, they shall find most suitable to their estate and condition; and to make and ordain such civil laws and constitutions, and to inflict such punishments upon transgressors, and for the execution thereof so to place and displace officers of justice, as they, or the greater part of them, should by free consent agree thereto." All laws, however, must, as nearly as might be, conform to those of England. The government established under this charter was a pure democracy. There was a legislative body called a court of commissioners, consisting of six persons from each town; but their acts were subject to repeal by the votes of the freemen of each town. All judicial officers, and officers to manage town affairs, were elected by popular suffrage. This charter was granted in the time of the contest between the king and parliament, and while the latter had the supremacy, and continued until after the restoration of the kingdom to Charles II, by whom a new charter was granted in 1663.

In 1643, the colonies of Massachusetts, Plymouth, Connecticut, and New Haven, formed a league, or confederation, by the name of "The United Colonies of New England," for their mutual protection against the Indians, and against the Dutch at Manhattan. By the terms of this union, the internal affairs of each colony were left to its own government.

In war, each was to furnish its proportion of men, according to its population; and the common affairs of the confederacy were to be conducted by a congress composed of two commissioners from each colony. In its most essential provisions, it resembled, and probably afterwards suggested, that more celebrated confederation of the thirteen independent states, which was formed for their mutual defense during the war of the revolution.

During the civil wars of England, while the government was in the hands of the republican parliament, and afterwards under the protectorate of Cromwell, the most friendly feelings subsisted between the colonists and the ruling power of the parent country. The acts of parliament were highly favorable to the colonists. The navigation act, [elsewhere described,] was not enforced against them; and the goods imported from, and those exported to Europe, were exempted from duties. And even the charters granted by Charles II, soon after his restoration to the throne, secured to the colonists the right of self-government.

The *royal*, or *provincial* governments, were those of Virginia, New York, New Hampshire, New Jersey, the Carolinas, and Georgia. The Carolinas, and the Jerseys, (there being East and West Jersey,) were at first under proprietary governments; but at a later period, the Carolinas (1728) and New Jersey (1702) came under royal charters, which continued until the Revolution. In the royal governments, the power was vested in a governor and council, appointed by the crown, and a representative assembly chosen by the people. These governments were called royal, because they derived all their powers directly from the king. The governors held their offices at his pleasure, and acted under his instructions. The council, besides constituting one branch of the legislature, in which they had a negative on the acts of the other, acted also in an executive capacity, as advisers of the governor. The governors had power to negative the acts of both houses; and all acts, though approved by him, must be submitted to the king and receive his approval, before they could have the effect of laws. The judges also, and most of the other officers, were appointed by the king, and held their offices at his pleasure.

Virginia was settled in 1607, by a colony of 100 persons sent out by the London company. This was the earliest permanent settlement made within the country.

The affairs of the colony were at first managed by a governor and council appointed by the company. In 1619, a great change was made in the government of the colony. A general assembly, the first that was held in America, was called by the governor. This assembly con-

sisted of "two burgesses chosen from every town, hundred, and plantation, by the inhabitants, to decide, conjointly with the governor and council, by the greatest majority of voices, in all matters of concern relating to the colony." Eleven boroughs were represented in the convention. The government was now established on the plan of that of England, the governor, council, and assembly, corresponding to the king, lords, and commons. In 1621, by an ordinance of the company, two councils were constituted, one a council of state, appointed by the company, to assist the governor; the other a legislative council, composed of the council of state, and the burgesses, and called the general assembly. A negative upon the acts of the assembly was reserved to the governor; and no act was to have force until confirmed by the company in Europe; nor were any orders from the company to bind the colony, until ratified by the general assembly.

The displeasure of the king (James I) having been excited by the establishment of so popular a form of government, he demanded of the company a surrender of their charter. Compliance with this demand being refused by the company, a writ of *quo warranto* was issued, (1624,) and judgment rendered against the company. The charter was declared forfeit, the company was dissolved, and all its powers reverted in the crown.

The government having been taken into royal hands, the king issued a special commission, appointing a governor and twelve councillors to direct the affairs of the colony. James died soon after, and was succeeded by Charles I, who was not more friendly to the late popular system of government than his father. He devolved upon the governor and council the whole legislative and executive powers of the colony, with instructions to conform strictly to all orders they should receive from him. They were authorized to levy taxes; to seize the property of the late company, and to apply it to public use; and to transport colonists to England, to be punished for crimes committed in Virginia. In addition to this, a monopoly of the tobacco trade was secured, by requiring the whole of that article to be shipped to England, and delivered to agents of the king.

Under the pressure of these arbitrary regulations, rendered more secure by the cruelty with which the governor (Sir John Harvey) exercised his powers, the colonists, in 1636, after a peaceable submission for several years to his authority, seized the governor, and sent him a prisoner to England, accompanied by two of their number to represent their grievances. Displeased with this act of violence, without giving the deputies a hearing, the king sent Harvey back to Virginia, reinvested with his former powers.

Soon after this occurrence, Charles, probably apprehending that the

complaints of the colonists would be brought before his parliament, which, after an intermission of seven years, he was about to reassemble; and that these complaints would be regarded as evidence of his arbitrary disposition, and serve to increase the discontent which his despotic rule had excited among his subjects at home, suddenly changed his conduct towards the colonists. Sir William Berkeley, a gentleman possessing a character the opposite of that of Harvey, was appointed to succeed the latter as governor, and directed to restore to the people the right of representation, by issuing writs for the election of burgesses from the plantations, who, with the governor and council, were to constitute the general assembly.

Berkeley, who continued to administer the government until after the downfall and execution of Charles, had, by his mild administration, rendered both himself and royal family highly popular. The house of commons, having become established in power, claimed the right to control the affairs of the colony, and passed an ordinance in 1650, declaring the people of Virginia and other places in a state of rebellion, and prohibiting all trade with the English settlements in America. In pursuance of authority granted by the act, the council of state sent to Virginia an armed force to bring the colonists to obedience. Commissioners also were sent, authorized to offer to the inhabitants, as a condition of their submission, the liberty to "choose such burgesses as they should think fit, for the better regulating and governing of affairs;" provided nothing should be done contrary to the government and laws of the Commonwealth of England. The squadron entered the Bay of Chesapeake in 1651, but Berkeley, unable to make successful resistance to superior force, capitulated; on terms, however, which were favorable to the colonists.

During the supremacy of the parliament and Cromwell, the Virginians enjoyed the right of self-government and free trade. The governor, councillors, and other officers, were chosen by the burgesses or grand assembly. Their submission to the commonwealth of England, however, was never cordial, and after a period of nine years, they determined to return to their former allegiance. The house of burgesses declared that the supreme power should reside in the assembly, and that all writs should issue in the name of the "grand assembly of Virginia, until such a command and commission come out of England, as should be by the assembly judged lawful." Berkeley was again appointed governor, and Charles II, even before his restoration to the throne had been effected, was proclaimed in Virginia before intelligence of Cromwell's death had been received. Berkeley was soon after appointed governor by the king, with instructions to summon an assembly, according to usage and to declare a general act of indemnity.

Pitkin says: "The political state of this colony, from the time of this capitulation to the restoration of Charles II, has not, until recently, been perfectly understood. The early historians of Virginia have stated that during this period, the people of that colony were in entire subjection to the oppressive government of Cromwell, and that the acts of parliament, in relation to trade, were there rigidly enforced, while they were relaxed in favor of the New England colonies. Recent researches, however, into the records of that ancient colony, prove these statements to be incorrect."—Vol. 1, p. 74. It was expressly agreed by the articles of capitulation, that the colonists were to have "as free trade as the people do enjoy to all places and with all nations." It is hardly to be supposed, notwithstanding, that the ordinance of 1650, and the celebrated navigation act of 1651, were entirely inoperative during the time above mentioned.

The Virginians soon became dissatisfied with their government. The right to a participation in the government was insecure, being dependent on the will of the king. Representative assemblies were called by the governors under royal instructions, which might be withdrawn or altered at the pleasure of the crown. The rights of the people were rendered more precarious by the reserved right of the crown to negative any act of the legislature. This form of government, however, continued, without material alteration, until the revolution.

New York was settled in 1614, by the Dutch, under a grant of the Dutch government to the West India company, and was held by them fifty years. The powers of government, legislative, executive, and judicial, were vested in a governor and council, who held their offices under the authority of the company, and were intrusted with the sole management of the affairs of the colony. Although the Dutch enjoyed the possession of this territory, it was claimed by the English; and in 1664, the territory now comprising New York, New Jersey, Pennsylvania, Delaware, and a part of Connecticut, was granted by Charles II, to his brother, the duke of York and Albany. The same year an expedition was sent out under the command of Col. Nichols, who demanded and received the surrender of the colony in the name of the British crown.

For nearly twenty years after their surrender to the English, the people continued to be denied the right of representation. All power was vested in a governor and council, appointed by the king, and acting under his instructions. At length, in 1683, yielding to the repeated solicitations of the people, the king instructed the governor to call a legislative assembly, in which representatives of the freeholders were to be associated with the council.

Col. Nichols was the first English governor. He and his successors,

with their councils, were appointed by the duke of York, until July, 1673, when a Dutch fleet entered the harbor of New York, and obtained a surrender of the place. The Dutch held it till February, 1674, when it was again surrendered to the English by treaty. In the same year, Charles II made a new grant to the duke of York, who appointed as his deputy-governor sir Edmund Andros, whose tyrannical conduct here, and subsequently as governor-general of the New England colonies, rendered him odious to the people.

The *proprietary* governments were those of Maryland, Pennsylvania, Delaware, and at first the Carolinas and the Jerseys. These colonies were in the hands of proprietors, or persons to whom the right of the soil had been conveyed by the crown, with a general power to establish civil governments. Their authority within their own territories was nearly the same as that exercised by the crown in the royal governments. They appointed the governor, and organized and convened the legislature, according to their own will; and they also appointed other officers, or authorized the governors to appoint them. They had power to repeal or negative the acts of the assemblies; and the exercise of this power caused great discontent among the people. The proprietors, however, were subject to the control of the crown, from whom their own powers were derived.

Maryland was settled in 1633. The founding of this colony was contemplated by sir George Calvert, a Roman Catholic nobleman, to whom a grant of the territory was made by Charles I. Calvert died, however, before the settlement was effected; and the enterprise was assumed by his brother Cecil, second lord Baltimore, who appointed his brother, Leonard Calvert, governor, under whose command the first company of emigrants sailed from England, in November, 1632. The proprietor had authority, with the assent of the freemen, or their deputies, to make all laws that were not inconsistent with those of England. The freemen, at first, met in a body to make laws. In 1639, an act was passed, providing for the election of a house of burgesses, who, with other persons called by special writs of the proprietors, and the governor and secretary, constituted the general assembly. In 1650, the legislature was divided into two branches. Those called by special writs were to form the upper house, and those chosen by the hundreds, the lower house: and all bills assented to by both houses and approved by the governor, were to be deemed the laws of the province.

During the civil wars in England, which gave supremacy to parliament and Cromwell, the governor was for a time deprived of his government. In 1651, commissioners were appointed "for reducing and governing the colonies within the bay of Chesapeake." The proprietor

having submitted to the authority of parliament, was permitted to retain his station; but he was to govern in the name of the government of England.

In regard to the interference of parliament with the government of the colony, the colonists were divided. The Catholics adhered to the proprietors, while others favored the views of the ruling party in England. Contentions soon arose between the parties, which led to a civil war, in which the governor and Catholics were defeated; and in 1654, the government was assumed by the lord Protector. A new assembly was convened, and an act was passed, by which persons who held to popery or prelacy were restrained from the free exercise of their religion. On the restoration of Charles II, the government was restored to the proprietor. In 1689, in the reign of King William, he was again deprived of his government, which was permanently restored in 1716.

The province of Carolina was erected in 1663, and granted to lord Clarendon and others as proprietors. This charter, like that of Maryland, gave to the proprietors authority to establish such government and enact such laws as they should think proper, but "with the assent of the freemen of the colony." The powers of government were vested in a governor, chosen by the proprietors out of thirteen persons to be nominated by the colony, and an assembly to be composed of the governor, council, and representatives of the people, with power to make laws, not contrary to those of England, which should remain in force until the proprietors should publish their dissent to them. By a change in this constitution, the executive power was placed in a governor, to act by the advice of a council of twelve, six of them to be chosen by himself, and the other six by the assembly, which was composed of the governor, the council, and twelve delegates chosen annually by the freeholders. Freedom in religion was granted, and all were entitled to equal privileges, on taking the oaths of allegiance to the king, and fidelity to the governor.

Still dissatisfied with their system of government, the proprietors procured the services of John Locke, the eminent philosopher, in drawing up a constitution, which was adopted by the proprietors in 1690. This plan was ill adapted to the government of freemen. A kind of nobility was created, with the titles of barons, landgraves, and casiques, who constituted one branch of the legislature. The whole system was extremely complicated and inconvenient, and was the cause of constant dissatisfaction among the people, and of frequent disputes between them and the proprietors. In 1693, this constitution was abrogated by the proprietors, and the former reestablished.

In 1719, incited by the arbitrary exercise of power by the proprietors,

the colonists, in a convention at Charleston, renounced the government of the proprietors, elected a governor, and declared him "invested with the powers of any of His Majesty's governors in America, till His Majesty's pleasure should be further known." The people having made their situation known to the crown, the charter of the proprietors was declared forfeit; the government was assumed by the crown; and a royal governor was appointed. In 1728, the king, in pursuance of an act of parliament, purchased of the proprietors their rights in the province; and the country was divided into two separate provinces, which continued under royal governments until the American revolution.

New Jersey, as has been stated, was included in the grant of Charles II, to his brother, the duke of York, in 1664. It was conveyed by the duke to lord Berkeley and sir George Carteret, and in 1766 it was divided between the proprietors or their grantees, into East and West Jersey, and a separate government was maintained in each by its proprietors, until 1702, when the proprietors surrendered the right of government to the crown, and both colonies were reunited under a royal charter.

The proprietor of Pennsylvania was William Penn, to whom the territory was granted by Charles II, in 1681; and three vessels with settlers arrived soon after from England. The next year Penn himself arrived, with about 2,000 emigrants, and a form of government, and code of laws prepared by himself for his province. The government consisted of a governor, a council of seventy-two persons, elected by the freemen, and an assembly to be composed, the first year, of the whole body of freemen, afterwards of two hundred, and never of more than five hundred. The council, in which the governor, having three votes, presided, exercised the executive power, and originated all bills for laws to be laid before the assembly. This system, as a whole, was ill adapted to the condition of the colony, and in 1683, was displaced by a new one agreed on by the governor and freemen. Penn having purchased of the duke of York, the lower counties of Delaware, settled by the Dutch, Swedes, and Finns, that territory was included in this government. By this constitution the council was reduced to eighteen, and the assembly to thirty-six.

In 1701, the government was again changed. The general assembly was to consist of a single house, composed of four representatives from each county, the governor having a negative upon the assembly. There was a council of state appointed by the proprietor, to advise and assist the governor, or his deputy, in all public affairs; and in his absence, or in case of the death or incapacity of his deputy, to exercise the power of government. This constitution continued until the revolution.

CHAPTER II.

TAXATION OF THE COLONIES, AND OTHER CAUSES OF THE REVOLUTION. INDEPENDENCE DECLARED.

A WIDE difference of opinion existed as to the extent of power which Great Britain might lawfully exercise over the colonies. The crown claimed the right to alter or to revoke their charters. This claim the colonists denied. They regarded the charters as compacts or agreements between themselves and the king; and, being such, they could not be altered without their consent, nor annulled or revoked without a forfeiture on their part, which must be determined by a court of competent authority. The only limitation to the power of the colonial legislatures was, that their laws must not be repugnant to the laws of England. The king declared that the laws here meant were the ordinary laws of the kingdom. The colonists contended that the laws to which their laws must conform, were only the great, fundamental laws which secured to every British subject his birth-right privileges, as declared in the *magna charta* and bill of rights. Hence the resistance to the frequent attempts by the crown to infringe their chartered rights.

The most prominent subject of controversy was that of taxation without representation. It was asserted in England, that parliament had the power "to bind the colonies in all cases whatsoever," and consequently to tax them at pleasure. As the powers of the British government over the colonies had not been accurately defined, opinions somewhat different were entertained on this subject, even in America. In New England, it was generally maintained that the colonial assemblies possessed all the powers of legislation which had not been surrendered by compact; that the colonists, being subjects of the British crown, were not bound by laws to which their representatives had not assented; that parliament had power to regulate commerce, but not the internal affairs of the colonies; and therefore, that while it could impose duties for the *regulation of trade*, its power did not extend to *taxation*. In some colonies, the right of general legislation seems to have been conceded to parliament, in cases of internal as well as external regulation. The right of internal taxation, however, was not admitted even in these colonies.

The Plymouth colony, in 1636, Maryland in 1650, and Massachusetts in 1661, severally declared, by their legislatures, that no taxes should be

imposed but by the consent of the body of freemen, or their representatives. In 1664, the assembly of Rhode Island, adopting the language of *magna charta*, declared, that "No aid, tax, tallage, or custom, loan, benevolence, gift, excise, duty, or imposition whatever, shall be laid, assessed, imposed, levied, or required, of or on any of his Majesty's subjects, within this colony, or upon their estates, upon any manner of pretense or color, but by the assent of the general assembly of this colony." The legislature of Massachusetts, in 1692, declared, that no other authority had the right to impose upon the colony any tax whatever. About the same time, the legislature of New York passed an act asserting its own exclusive right to make laws relating not only to taxation, but to the general affairs of the colony. In Virginia, in 1676, it was claimed to be "the right of Virginians, as well as of all other Englishmen, not to be taxed but by their own consent, expressed by their representatives." The assembly of New Jersey, in 1680, in a certain case, declared even duties on goods to be illegal and unconstitutional, because imposed without their consent.

The general sentiment on this question, has been stated by the late John Adams thus: "The authority of parliament was never generally acknowledged in America. More than a century since, Massachusetts and Virginia both protested against the act of navigation, and refused obedience, for this very reason, because they were not represented in parliament, and were therefore not bound; and afterwards confirmed it by their own provincial authority. And from that time to this, the general sense of the colonies has been, that the authority of parliament was confined to the regulation of trade, and did not extend to taxation or internal legislation."

The colonists had from the beginning acknowledged the authority of parliament to regulate commerce, and had paid duties laid for that purpose; but when they were made to suffer from the restrictive measures of the British government, some were disposed to question its right even to lay duties. In New Jersey the collection of duties was, in one instance, resisted, on the ground that they were illegal and unconstitutional, because imposed without the consent of the people. Resistance, however, to the laws of parliament was seldom offered, until systematic efforts were made by that body, to exercise the power of internal legislation and taxation.

The system of monopolizing the trade of the colonies by Great Britain, was commenced at an early period. The Virginia company, in 1621, to avoid the heavy duties upon their tobacco imported into England, sent it to Holland. An order of the king and council soon followed, declaring "that no tobacco, or other productions

of the colonies, should thenceforth be carried into any foreign port, until they were first landed in England, and the customs paid." This order not being strictly enforced by the governors, instructions were given, in 1637, to the governor of Virginia, to "be very careful that no vessel depart thence loaded with these commodities before bond with sufficient sureties be taken to his Majesty's use, to bring the same into his Majesty's dominions, and to carry a loading from thence."

Notwithstanding these instructions, the productions of the colonies and of other countries, were still carried by Hollanders for English merchants. Then came that memorable enactment, called the navigation act, by the commons in 1651. By this act it was ordained, that no merchandise should be imported into his Majesty's plantations, or exported from them, but in vessels built in England or its plantations; and that no sugar, tobacco, ginger, cotton, indigo, or other articles enumerated, should be exported from the colonies to any other country than such as belonged to the crown of Great Britain. This act, which was passed while the parliament was in power, was reenacted soon after the restoration of Charles II, and with additional restrictions. Not satisfied with the monopoly of the colonial *export* trade, parliament, determined to effect a similar limitation of the *import* trade, enacted in 1663, that "no commodity of the growth or manufacture of *Europe*, shall be imported into any of the king's plantations in Asia, Africa, or America, but what shall have been *shipped in England, Wales, or town of Berwick*, and in English built shipping, whereof the master and three-fourths of the mariners are English, and carried *directly* thence to the said plantations;" excepting, however, salt from any part of Europe for the American fisheries, wines from Madeira and the Azores, and provisions from Scotland, for the plantations. The objects of this selfish policy are declared in the preamble to this act to be: "the keeping of his Majesty's subjects in the plantations in a *firmer dependence*;" the "increase of English shipping;" and "*the vent of English woolens and other manufactures and commodities*."

These acts, however, left the colonists free to export the enumerated commodities from one plantation to another, without duty. But even this privilege was not long enjoyed. In 1672, duties were imposed upon sugars, tobacco, indigo, cotton, wool, &c., transported from one colony to another. These acts were, in some of the colonies, declared to be violations of their charters; and in Massachusetts they were wholly disregarded. They were pronounced by the general court, to be an invasion of the rights, liberties, and properties of the subjects of his Majesty in the colony, they not being represented in parliament." The displeasure of the king and ministry having been excited by this violation of the

laws and measures being meditated to enforce them, the general court, by a special act, ordered their observance in future. In the Carolinas, also, these acts were not generally obeyed. The act levying duties on articles carried from one colony to another was pronounced a violation of their charters.

In 1696, a board of commissioners, called "a board of trade and plantations," was constituted to take the management of the affairs of the colonies. Laws were also passed for the more certain enforcement of the acts of trade. One of these laws required the governors, on oath, and under a severe penalty, to see the navigation acts executed. Parliament also made the authority of the governors in the proprietary governments dependent on the approval of the king, in violation of the charters of these colonies.

We have seen, that the restrictive policy of the parent country was to secure a "vent of English woollens and other manufactures and commodities," as well as the "increase of English shipping." Accordingly, when the colonists began to manufacture for themselves, they were met by an act of parliament, declaring that "no wool, yarn, or woollen manufactures of the American plantations should be shipped there to be transported to any place whatever." The manufactures most injurious to the trade and manufactures of the parent country, were those of wool, flax, iron, paper, hats and leather. Hats being made in New England, and exported to Spain, Portugal, and the West India islands, an act was passed in 1732, which prohibited not only their exportation to foreign countries but their being carried from one colony to another. And, as an additional means of crippling the manufacture of this article, no hatter was allowed to carry on the business, without having served seven years as an apprentice to the trade, or to employ more than two apprentices at one time; and no black or negro might work at the business at all. By an act of parliament, in 1750, iron in pigs and bars might be imported from the colonies into England to be manufactured; but the erection or continuance of any slitting or rolling mill, plating forge to work with a tilt-hammer, or any furnace for making steel in the colonies, was prohibited; and any such mill or machinery was declared to be a common nuisance, which the governors, under a penalty of £500, were required to cause to be abated.

The extraordinary expenses of the war between Great Britain and France, which terminated in the peace of 1763, and in the acquisition of Canada and the other French possessions in North America, having rendered it necessary to increase the national revenue, it was determined to have recourse to taxation in the colonies; and also to provide for a more rigid execution of the navigation acts, and acts regulating the colonial

trade. Accordingly, orders were issued, in 1760, to the custom house officers in America, to take more effectual measures for enforcing the acts of trade; and particularly those which imposed duties upon the productions of the French and Spanish West India islands. To insure the future collection of these duties, all officers in the sea service on the American station, were converted into revenue officers, and required to take custom house oaths; and the collectors of customs were directed to apply, if necessary, to the courts for written authority to break open houses and other buildings to search for smuggled and prohibited goods. The New England colonies had carried on a lucrative trade with the French and Spanish colonies. With the sugar, molasses, &c., there obtained, they had been enabled to pay for the British manufactures imported. Massachusetts being most deeply interested in that trade, these measures were extremely obnoxious to the people of that colony. What rendered the law more objectionable was, that the penalties and forfeitures under it were recoverable in any court of vice-admiralty without trial by jury.

Another measure contemplated by the British ministry about this time, was the modification of the colonial governments. As these governments, especially the charter governments, were deemed too liberal, it was thought necessary to alter them, with a view of rendering the colonies more dependent on the crown, and of preventing revolts in future. The attempt to carry into effect this purpose of "reforming the American governments," was prevented, probably, by the general excitement produced by the resolution of parliament, in 1764, declaring the intention of imposing stamp duties in the colonies; the further consideration of which was postponed to the next session.

Apprehending the passage of the stamp act, agents from several of the provincial assemblies were sent to England, with petitions to the king, and memorials to both houses of parliament against the measure; but the petitions and memorials were not received; it being alleged to be contrary to order to receive petitions against money bills. The bill was passed by very large majorities in both houses, and on the 22nd of March, 1765, received the royal assent. This act provided that obligations in writing in daily use, were to be null and void, unless they were executed on a paper or parchment stamped with a specific duty. Also newspapers, almanacs, and pamphlets were to be made to contribute to the British treasury.

Intelligence of the passage of this act was received with indignation and alarm; meetings of the people were held; and the whole country, was set in a flame. The assembly of Virginia was in session when the news arrived. Resolutions introduced by Patrick Henry, were adopted,

in which the taxation of the people by themselves or their chosen representatives, was claimed as their exclusive right. Similar resolutions were passed by the legislatures of several other colonies. The house of representatives of Massachusetts recommended a congress of deputies from all the colonies, to meet at New York on the first Tuesday of October, 1765, to consult on the circumstances of the colonies and measures of relief. Commissioners from all the colonies except New Hampshire assembled; and Timothy Ruggles, of Massachusetts, was elected president of the congress. A declaration of rights and grievances was adopted, asserting among other things, that the colonists "are entitled to all the inherent rights and liberties of his Majesty's natural born subjects within the kingdom of Great Britain; that it was the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally, or by their representatives; that the right of trial by jury is the inherent right of every British subject in these colonies; that the stamp act and other acts extending the jurisdiction of the courts of admiralty beyond its ancient limits, have a manifest tendency to subvert the rights and liberties of the colonists; that the restrictions on the trade of the colonies will render them unable to purchase the manufactures of Great Britain; and that it was the right and duty of the colonists, as British subjects, to petition the king and parliament for the repeal of the stamp act, of the acts extending the admiralty jurisdiction, and of the other late acts for the restriction of American commerce."

They next prepared an address to the king, and a petition to both houses of parliament. These papers, while they breathe a spirit of true loyalty, furnish a specimen of dignified, earnest, yet respectful remonstrance, that commands the highest admiration. The king is reminded of the causes and objects that brought their ancestors to this country, of the encouragements offered them by his predecessors; of their toils and hardships in converting the deserts of America into flourishing countries, by which the wealth and power of Great Britain had been greatly augmented. They proceed to say: "Our connection with this empire we esteem our greatest happiness and security, and humbly conceive it may now be so established by your royal wisdom, as to endure to the latest period of time. This, with the most humble submission to your Majesty, we apprehend will be most effectually accomplished, by fixing the pillars thereof on *liberty and justice*, and securing the inherent rights and liberties of your subjects here upon the principles of the English constitution." In their petition to the house of commons, they claim exemption from taxation, on the ground "that parliament, adhering to the principles of the constitution, have never hitherto taxed any

but those who were actually therein represented ;” and then show, that it would be for the interest of Great Britain, as well as for that of the colonies, to repeal the acts complained of.

• • The congress recommended to the colonies to send with their petitions special agents, who should unite their endeavors to obtain a redress of grievances. One of these was Dr. Franklin, from Pennsylvania. The petitions were to be presented immediately to the king, and to parliament when they should again be convened.

Meetings of the people were held in every part of the country, to express their opposition to the stamp act; and the determination was declared, that the act should never be carried into effect. Newspapers abounded with denunciations of the act; and essays from some of the ablest pens were distributed in pamphlets throughout the country. The merchants of New York, Philadelphia, and Boston, entered into agreements to order no goods from Great Britain; and associations were formed in all parts of the country against the use of British manufactures, and for the encouragement of domestic fabrics. To avoid the necessity of using stamps, proceedings in the courts of justice were suspended, and the people were advised to settle their disputes by arbitration. An association was also formed, styled “*the sons of liberty*,” who bound themselves to go to any part of the country, to resist by force any attempt to carry the stamp act into operation. So violent was the opposition to this measure, that, on the first day of November, when the act was to have gone into effect, neither stamps nor officers were to be found!

In July of this year, (1765,) a change took place in the British cabinet. The new administration was not disposed to prosecute the plan for taxing the colonies without their consent. In January, 1766, parliament assembled, and the papers of the American congress were laid before that body. A bill for the repeal of the stamp act was introduced in February; and after an animated and able debate, in which Mr. Pitt and Lord Grenville were the leading speakers; the former advocating the repeal, the latter opposing it; the bill passed both houses by large majorities, and, on the 18th of March, received the assent of the king. Parliament, however, lest the act of repeal should be construed into a relinquishment of the right of taxation, passed a declaratory resolution, asserting the power and right of the king and parliament “to make laws of sufficient force and validity to bind the colonies *in all cases whatsoever*.” This resolution was followed by four others, one of which declared, that the tumults and insurrections which had been raised and carried on in several of the colonies, had been encouraged by votes and resolutions passed in the assemblies of the said colonies; and another, that the king should be requested to instruct the governors of these colonies “to require the

assemblies to make proper recompense to those who have suffered in their persons or properties, in consequence of such tumults and insurrections."

The general joy caused by the repeal of the stamp act, was in some measure restrained by the claim of unlimited power over the colonies asserted in the first resolution. It was apprehended by some, that the exercise of the power of taxation would be repeated on some future occasion. Others, however, supposed the declaration to have been made simply from motives of national pride; parliament having deemed it derogatory to British honor to concede the principle contended for by the colonies; and that the declaration would never be reduced to practice. The hopes of the latter, however, were soon disappointed. In 1767, an act was passed, imposing duties upon glass, paper, paints, and tea imported into the colonies from Great Britain; the object of which, as declared in the preamble, was "to raise a *revenue* in America."

The tardy compliance, by some of the colonies, with the demand to make compensation to the sufferers in the stamp act riots, and the offensive manner in which the requisition was complied with; and the refusal of others to furnish certain articles not usually furnished, but now required, for the soldiers quartered in the colonies, excited the displeasure of the British government, and were probably among the causes which induced the passage of this act. To insure the collection of the duties, authority was given the king to appoint commissioners who were to reside in the colonies, and to be intrusted with the execution of the laws relating to trade. The duties imposed by this act were deemed taxes as really as were the stamp duties; and the act imposing them was scarcely less odious than its predecessor, and met with similar opposition. Massachusetts, being, from her extensive commerce, most deeply affected by restrictions upon the trade of the colonies, took the lead in opposition to this measure. Her general assembly met in January, 1768. A petition to the king was prepared; and letters were addressed to some of the prominent members of parliament, in which they again claim exemption from taxation without representation, as the right of Englishmen, under the British constitution. They also set forth the *injustice* of this and other acts of parliament. They say: "The colonies are prohibited from importing commodities the growth or manufacture of Europe, except from Great Britain, with the exception of a few articles;" which they consider an advantage to Great Britain of twenty per cent. in the price of her productions, and virtually a tax of equal amount to the colonies. They say farther: "The same reasoning will hold good to the many enumerated articles of their produce which the colonies are restrained, by acts of parliament, from sending to foreign ports. By this restraint, the market is glutted, and consequently the produce sold is cheaper; which is an advantage to

Great Britain, and an equal loss or tax upon the colonies." They also addressed a circular letter to the assemblies of the respective colonies. The other colonies joined, not only in addressing the king, but in declaring the duties unconstitutional.

Alarmed at this movement set on foot by Massachusetts, the king, by his secretary of state, addressed a circular letter to the several governors, to be by them laid before the assemblies of their respective colonies, pronouncing the action of Massachusetts an unjustifiable attempt to revive those distractions which have operated so fatally to the prejudice of the colonies and the mother country," and requesting them not to take part with Massachusetts by approving such proceedings. The governor of Massachusetts was directed "to require of the house of representatives in his majesty's name, to rescind the resolution which gave birth to the circular letter of the speaker." The house, by a vote of 92 to 17, refused to rescind or to disapprove the proceedings of the preceding assembly, and addressed a letter to the British secretary, Lord Hillsborough, in justification of their course. A letter was also sent to the governor, stating the reasons for refusing to rescind the resolution. The governor, on receiving this letter, dissolved the assembly. He had been previously instructed by the king to do so, in case of their refusal to rescind, and to transmit their proceedings to the king, that measures might be taken to prevent, for the future, "conduct of so extraordinary and unconstitutional a nature." The "measures" intended were the arresting of persons concerned in resisting or preventing the execution of the laws, and the transporting of them to England to be tried for treason.

The assembly of Virginia passed resolutions asserting the exclusive right to impose taxes upon the inhabitants of that colony, and the right to petition for a redress of grievances, and to obtain a concurrence of other colonies in such petitions, and expressing their disapproval of the address of parliament to the king requesting him to direct the governor of Massachusetts to aid in causing persons to be prosecuted in England for offenses alleged to have been committed in that colony. The assembly also agreed on an address to the king, declaring their attachment to the crown, and their conviction that the complaints of the colonists were not without just cause. The governor, on being informed of these proceedings, forthwith dissolved the assembly. Whereupon, the members met at a private house, and formed a non-importing association, in which the people of the province generally afterwards united.

In the same month, (May, 1769,) the general court of Massachusetts was convened for the first time since its dissolution in July, 1768. The state house being surrounded by an armed guard, the house requested the governor to order the removal of the troops from the town during

the session of the assembly, declaring it to be inconsistent with their dignity, as well as freedom, to deliberate in the midst of an armed force, with cannon pointed at the door of the state house. The governor refused to comply with the request, alleging that he had no authority over the troops

The general court had been convened in order to procure a grant of money for purposes of government; but they refused to enter upon the business for which they had been called together, confining themselves chiefly to the consideration of their grievances. In the hope that, if removed from the influences that surrounded them in the metropolis, they would attend to their proper legislative duties, the governor adjourned them to Cambridge. But they resumed the consideration of their rights and grievances, and passed a long series of resolutions, one of which related to the quartering of troops among them to enforce the laws, and declared, "that the establishment of a standing army in the colony, in time of peace, without consent of the general assembly, is an invasion of the natural rights of the people, as well as those which they claim as free born Englishmen, confirmed by *magna charta*, the bill of rights, as settled by the revolution, and by the charter of the province.' Another resolution expressed the same sentiment as that of the assembly of Virginia, relative to the transportation of Americans to England for trial. When, toward the close of the session, they were called upon by the governor to provide for paying expenses already incurred for quartering the troops, and for similar expenses in future, they peremptorily refused.

The spirit exhibited in the legislatures of Virginia and Massachusetts, prevailed in most of the colonies. Similar sentiments were expressed by their assemblies; and in several of them the Virginia resolutions were adopted. Non-importation agreements became general. One object of these associations is supposed to have been to secure the aid of the merchants and manufacturers, whose interests would be most affected by non-importation, in endeavoring to procure a repeal of the obnoxious laws. The merchants of Boston, in August, 1768, agreed not to import from Great Britain, between the first day of January, 1769, the day on which the revenue act was to take effect, and the first of January, 1770, any articles whatever, except a few of the most necessary; and of those last taxed, to import none until the duties were taken off. In New York, Salem, and some other cities and towns, similar agreements were formed; but they did not become general through the colonies, until all hope was lost that petitions and memorials would effect the desired object.

In March, 1770, a bill was introduced in parliament, exempting from duty all the articles embraced in the act of 1768, except tea. The total

repeal of the act might have been construed into an abandonment of the principle in controversy. To prevent such construction, was probably the chief object of retaining the duty on that article. At a meeting of the merchants of Boston, it was resolved, that this partial repeal would not remove the difficulties that attended their trade; that it was intended only to relieve the British manufacturers; and that they would adhere to their non-importation agreement. Similar resolutions were elsewhere adopted. The general observance, however, of the non-importation agreement, did not long continue. Associations, and individuals of the same association, accused each other of violations of the agreement; and each made the acts of others a pretext for his own.

Troops were still kept in Boston, to enforce the acts of trade and revenue, and to awe the people into submission. This was the cause of frequent quarrels and of some actual collisions. On the 5th of March, 1770, an affray took place between a part of the military and some of the inhabitants, in which the latter were fired upon, and four of them were killed. The town was thrown into commotion. The bells were rung, and the inhabitants assembled in arms, and were with difficulty restrained from rushing upon the soldiers. The next morning, a large meeting assembled in Faneuil Hall, and in the afternoon, at a town meeting legally warned, it was resolved, "that nothing could rationally be expected to restore the peace of the town, and prevent further blood and carnage, but the immediate removal of the troops." A committee was appointed, with Samuel Adams as chairman, who proceeded to the council chamber, to demand of the lieutenant governor (Hutchinson) their instant removal. After some hesitation, and upon the advice of the council, the troops were removed to the castle, and peace was restored. Captain Preston and eight soldiers were indicted and tried for murder. It appeared upon trial, that the soldiers had been provoked by repeated insults and assaults of the mob; and all were acquitted except two, who were convicted of manslaughter only.

On the 12th of April, the bill to take off the duties on glass, paper, and paints, was passed; but although the non-importation associations had been generally abandoned, opposition to the importations was still maintained. The perseverance of the colonists in their determination not to import tea from England had caused the accumulation of a large quantity in the warehouses of the East India company, who were impelled to apply to parliament for relief. An act was accordingly passed, (1773,) allowing the company a drawback of all the duties they had paid in England on such of their teas as they should export to America. This would enable the company to sell the article cheaper in the colonies than in Great Britain; which, it was hoped, would induce the colonists to

purchase it; who would thus contribute to the relief of the company, and to the revenues of Great Britain.

Large shipments of tea were made to Boston, New York, Philadelphia, Charleston, and other places. But the colonists were determined not to suffer it to be landed. If it should be landed, it would be sold and the duties would be paid; and a precedent for taxing the colonies would be established. In Charleston, the tea was, after much opposition, landed; but the consignees were not permitted to offer it for sale. In Philadelphia and New York, the consignees declined receiving it, and it was returned in the same vessels to England. At Boston, the consignees were requested to resign. They refusing to comply with the request, a large meeting assembled in Faneuil Hall, where it was voted, "that the tea shall not be landed; that no duty shall be paid; and that it shall be sent back in the same bottoms." And the captains of the vessels were directed to apply for clearances, without an entry of their vessels. While the meeting was in session, one of the captains was sent, for the last time, to the governor for a clearance. The refusal of the governor having been announced, the meeting dissolved; and the people repaired to the wharf, where a number, previously selected for the purpose, and dressed in the guise of Mohawk Indians, boarded the vessels, broke open three hundred and forty-two chests of tea, and emptied their contents into the ocean. This occurred in December, 1773.

In March following, these proceedings were laid before parliament, in a message from the king. Indignant at the conduct of the Americans, parliament at once resolved to provide effectually for securing obedience to the laws. The colony of Massachusetts, particularly the town of Boston, having rendered themselves most conspicuous in the opposition to the laws, were made the special objects of resentment. A bill, since called the "Boston port bill," was introduced "for discontinuing the lading and shipping of goods, wares and merchandises at Boston, or the harbor thereof, and for the removal of the custom house with its dependencies to the town of Salem." The bill passed with little opposition. This act, interdicting all intercourse with Boston, was to continue in force until the East India company should be fully compensated for the loss of their tea, and until the king should have declared himself satisfied that peace and good order had been restored in the town.

An act was next passed, "for the better regulating the government of the province of Massachusetts Bay." By this act, the charter was to be altered with a view to deprive the people of certain important rights. The members of the council were no longer to be chosen by the general assembly, but appointed by the king, and dismissed at his pleasure: and the magistrates and other officers were to be appointed and removed by

the governor, without the consent of the council. Also the right of selecting jurors by the people of the towns, was taken away, and given to the sheriffs, who were appointed by the governor. Nor were the people to be allowed to hold meetings in the several towns, except the annual meetings for the election of officers, without leave of the governor in writing. By this restriction, it was doubtless intended to prevent those assemblages in which the people had been accustomed to discuss their relations to the parent country, and to consult on measures for the maintenance of their rights.

Another act was passed, providing "for the impartial administration of justice in Massachusetts Bay;" by which, persons indicted for a capital offense committed in enforcing the revenue laws, or in suppressing, or aiding to suppress riots in that colony, might be sent to any other colony or to Great Britain to be tried. This act was to continue in force four years.

A fourth bill was passed for quartering soldiers on the inhabitants of the colonies.

And lastly, "an act for making more effectual provision for the government of the province of Quebec." By this act, the limits of that province were to be so extended as to include the territory between the lakes, the Ohio, and the Mississippi; and was intended to restrict the limits of other colonies. The most exceptionable feature of this act was, the establishment of a legislative council, to be appointed by the king, and invested with all the powers of legislation, except that of imposing taxes.

The refractory spirit of the people, especially those of Massachusetts, who were to be punished into submission, was not subdued by any of these laws. On receiving intelligence of the Boston port bill, a meeting of the people of that town was called, and resolutions were passed, denouncing the act, and inviting the other colonies to join with them in an agreement to stop all imports from, and exports to, Great Britain and the West Indies, until the act should be repealed.

The other colonies made common cause with Massachusetts. The legislature of Virginia being in session when the news of the Boston port bill arrived, appointed the first day of June, the day on which the port of Boston was to be closed, as a day of fasting, humiliation and prayer. The day was thus observed throughout the colonies, and sermons were preached adapted to the occasion. The governor of Virginia, displeased with this measure, dissolved the assembly. The members, however, before they separated, recommended to their committee of correspondence to communicate with the several committees of the other colonies, on the expediency of appointing deputies to meet annually in a

general congress, to deliberate on those general measures which the united interests of America might from time to time render necessary. This proposition was readily acceded to by the other colonies.

The house of representatives of Massachusetts, now assembled at Salem, passed resolutions in favor of the proposed congress, and recommending to the people of that province, to renounce the consumption of tea and all other goods imported from the East Indies, and Great Britain, until the grievances of the colonies should be redressed; and recommending also the encouragement of domestic manufactures. The house also appointed five delegates to the general convention. On being informed of the proceedings of the house, the governor sent his secretary to dissolve the assembly.

On the 5th of September, 1774, the convention assembled at Philadelphia. This congress published a declaration of rights, protesting against the right of Great Britain to tax the colonies, or to interfere with their internal affairs; with a statement of grievances, declaring the late acts of parliament to be violations of the rights of the colonists. They also prepared and signed an agreement, in which they, for themselves and their constituents, were pledged, not to import or use British goods till the acts complained of should be repealed. And if these acts should not be repealed by the 10th day of September, 1775, no goods were to be exported to Great Britain or her West India colonies, except rice to Europe. Addresses to the king and the people of Great Britain were also prepared, and an address to the people of the colonies. The congress was dissolved on the 26th of October; having recommended that another congress convene on the 10th of May following, if a redress of grievances should not render it unnecessary.

The determination of parliament, which met soon after the dissolution of the congress, to persevere in its attempts to enforce its measures in the colonies, removed all hope of redress by petition or remonstrance. Preparations now began to be made for resistance. Gunpowder was manufactured; the militia was trained; and military stores were collected. In April, 1775, a detachment of troops was sent to destroy the military stores collected at Concord. At Lexington, the militia were collected to oppose the British forces. They were fired upon by the British troops, and eight men were killed. Having proceeded to Concord, and destroyed a few of the stores, the troops returned, and were pursued by the Americans to Boston.

In May, 1775, a second congress met from all the colonies. It was determined to organize an army; and Washington was appointed commander-in-chief of the American forces. Three millions of dollars of paper money, in bills of credit, were authorized to be issued; for the re-

demption of which each colony was to pay its proportion, and the united colonies were to pay such part of the quota of any colony, as the colony should fail to discharge. A general post-office was established. Congress also published a declaration of the causes of taking up arms, and another address to the king, entreating a change of measures, and an address to the people of Great Britain, requesting their aid, and admonishing them of the threatening evils of a separation. The petition to the king was, as usual, unavailing. This congress, at its second meeting, (a recess from August to September having been had,) proceeded in its measures for resistance. Rules were adopted for the regulation of the navy; a farther emission of bills was authorized; and a treasury department was established.

The colonies being declared by the king to be in a state of rebellion, war measures were adopted by the British government. In December, parliament passed an act interdicting all trade with the colonies, and authorizing the capture and condemnation of all American vessels and their cargoes, and all other vessels found trading in any port in the colonies, as if they were the vessels of open enemies. The mass of the American people having become convinced of the necessity of an entire separation from the parent country, congress, on the 10th of June, 1776, appointed a committee to prepare a declaration, "that these colonies are, and of right ought to be, free and independent states." This committee consisted of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert R. Livingston. The resolution of independence was adopted on the 2d day of July; and on the 4th, congress adopted the DECLARATION OF INDEPENDENCE.

CHAPTER III.

THE GOVERNMENT OF THE CONFEDERATION.--TREATY WITH FRANCE.--
NEGOTIATION WITH GREAT BRITAIN.--PEACE.--CALL FOR A CONVENTION.

CONGRESS soon perceived the necessity of some compact between the colonies, in order to give effect and permanence to the union, and to define more accurately the powers of the congress. A plan was reported to that body a few days after the declaration of independence, but was not adopted. In April, 1777, the subject was resumed; and in November a plan was agreed on by congress. This instrument was called "Articles of confederation and perpetual union between the states of ———." This confederacy was to be styled, "The United States of America." Each state was to retain its sovereignty, freedom, and independence, and every power and right not expressly delegated to congress. The states entered into a "firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare."

Congress was composed of delegates, not less than two nor more than seven, from each state, appointed annually by its legislature, which had power to recall any delegate at any time within the year, and send another in his stead. The delegates were maintained by their respective states. In determining questions in congress, each state had one vote; and that vote was determined by a majority of the delegates.

The power to declare war and peace, to make requisitions of men and money, and to regulate the external affairs of the nation generally, was devolved upon congress. Many of the powers of congress, as well as the restrictions upon the states, were the same as under the present constitution. Some of the most essential powers, however, had been reserved to the states—powers, the want of which constituted the principal defect of the system, as will hereafter be seen.

Any act of congress, making war, granting letters of marque and reprisal, coining money, emitting bills, borrowing or appropriating money, and for certain other and similar purposes, was to have the assent of nine states. Other questions were to be decided by a majority of the states. Congress had authority to appoint a committee, denominated "a committee of the states," to consist of one delegate from each state; which committee, or any nine of them, had authority to execute, in the

recess of congress, such of the powers of that body as, by the consent of nine states, congress should think expedient to invest them with ; but no power was to be delegated to this committee, for which the voice of nine states in congress was requisite. Every state was to abide by the determination of congress on all questions submitted to them by the confederation. The articles of the confederation were to be observed by every state, and the union was to be perpetual : and no alteration could be made in any of them, unless agreed to by congress, and afterwards confirmed by the legislature of every state. The articles were to be proposed to the legislatures of all the states, and if approved by them, they were advised to authorize their delegates in congress to ratify the same.

It was not to be presumed, that any plan of union could have been formed, which would fully accord with the views and accommodate the varied and even conflicting interests of thirteen states. Some of the states adopted the articles without amendment. Others proposed amendments to be made to them. All, however, except New Jersey, Delaware, and Maryland, instructed their delegates to ratify and sign the articles, even if the proposed amendments should be rejected by congress. Maryland was the last state that assented to the ratification, which was done the first of March, 1781, more than three years after the articles had been adopted by congress.

The lapse of a few years proved some of the objections to the articles to have been well founded, as will appear in a succeeding chapter. One of these, in particular, was, that the power of regulating commerce with foreign nations had not been vested in congress. This was one of the numerous objections made by the state of New Jersey.

Several states objected that no provision had been made for the disposition of the western lands. They desired that congress should have power to fix the limits of such states as claimed to the Mississippi, and to dispose of the lands beyond these limits for the benefit of the union ; and it was not until after New York and Virginia had ceded their claims—the former to all lands beyond such line or lines as congress should judge expedient ; the latter to all north-west of the Ohio—that congress adopted regulations for the disposal of this western territory.

In May, 1776, congress adopted a resolution, offered by John Adams, recommending to the assemblies of the states to establish such governments as their circumstances might require. Before the close of the next year, most of the states had formed new constitutions. Several of the states had already done so when the recommendation was made. Under these constitutions, the legislatures consisted of two branches, except in Pennsylvania and Georgia. The representatives, as at present, were chosen by towns in New England ; in the other states by counties

The other branch, called in some states, the council, in others the senate, answered for the council in the colonial governments. In New Hampshire, Pennsylvania, and Delaware, there was no governor, the duties of that office being performed by a committee, or council, the president of which was president of the state. The governors in most of the states were chosen by the legislatures.

In the winter of 1778, while the British ministry were preparing a plan of conciliation to be proposed to the people of the United States, a treaty of friendship and commerce with France was concluded by the American commissioners in that country; also a treaty of defensive alliance, to have effect in case Great Britain should declare war against France. On the 13th of March, the ministry were informed by the French minister in England, that a treaty of friendship and commerce had been agreed on between France and the United States; and that measures would be taken to protect the commerce of the two countries. Whereupon the British minister at Paris was recalled—an act which is sometimes considered tantamount to a formal declaration of war.

The desire, however, of Great Britain to discontinue the war with the United States, was doubtless quickened by their alliance with so formidable a power as that of France. Anxious to try the virtue of her plan of reconciliation, without delay, copies of the bills containing the conciliatory propositions, were sent to the United States before they were passed.

One of these bills proposed not to impose any duty or tax in the North American colonies, except such as might be necessary for the regulation of commerce; and the duties were to be applied to the use of the colonies. The second was to restore the ancient charter of Massachusetts. The third authorized the appointment of commissioners to treat concerning the grievances in the government of the colonies. Congress, however, suspecting it to be the intention of Great Britain merely to lull the Americans with hopes of peace, until she could assemble new armies, determined to hold no conference or treaty with any commissioners on the part of Great Britain, unless she should first withdraw her fleets and armies, or acknowledge the independence of the states. The treaties with France arrived in May, and were unanimously ratified by congress. The British commissioners soon after arrived, but congress, adhering to the determination not to receive any proposals, except upon the conditions mentioned, the attempt at conciliation failed.

In the summer of 1778, a minister plenipotentiary arrived from France, and soon after Dr. Franklin was sent to represent the United States in that country. Early in the next year, Spain offered to mediate between France and Great Britain. France accepted the offer of mediation, but

Great Britain rejected it; and in June, (1779,) Spain joined France in the war. She declined, however, to accede to the treaties between France and the United States. Congress, had been informed of the proffered mediation by Spain, in February, and appointed a committee to whom the subject was referred, and who reported instructions to the American minister, prescribing the terms upon which he was authorized to negotiate peace. The choice of a minister for this purpose devolved upon John Adams.

Congress having determined to make proposals to Spain, with the view of inducing her to accede to the treaties between France and the United States, appointed John Jay as minister to Spain. As it was known that Spain was anxious to secure the possession of the extensive territory which she claimed in North America, Mr. Jay was instructed to offer her a guaranty of the Floridas, (in case she should succeed in her attempt to recover them,) provided she should concur with France and the United States in continuing the war with Great Britain, and provided that the United States should enjoy the free navigation of the Mississippi. Spain professed to desire the alliance, but required, as a condition, the exclusive right to the navigation of the Mississippi, the possession of the Floridas, and all the lands east of the Mississippi and the Alleghany mountains. Spain denied the claim of the United States to any lands west of these mountains; and as it was the intention of Spain to conquer the Floridas and the western territory, during the war with Great Britain, she wished to have all cause of future dispute between Spain and the United States relative to these lands removed. Several of the states claimed to the Mississippi, both by virtue of their charters, and by the treaty of 1763. This territory having been ceded by France to Great Britain by this treaty, the United States, by the revolution, became entitled to the same; and therefore they could not assent to the requisitions of Spain.

Subsequently, however, (1780,) the State of Virginia, alarmed at the reverses of the American army at the south, and desirous of securing the aid of Spain, requested congress to alter Mr. Jay's instructions. Congress accordingly authorized Mr. Jay to relinquish the right of navigating the Mississippi below the 31st degree of north latitude, a free navigation above that degree being acknowledged and guaranteed to the citizens of the United States. This proposition also was rejected.

In 1780, the empress of Russia offered to the British court, to become mediatrix between the belligerents in Europe. At the request of Great Britain the emperor of Germany was associated in the mediation. In June, 1781, congress appointed Dr. Franklin, Mr. Jay, Mr. Laurens, and Mr. Jefferson, to join Mr. Adams, as representatives of the United States in the congress which was to meet in Vienna. Great Britain, regarding

the United States as her colonies, refused to admit them as parties to the negotiation, as this would be a virtual recognition of their independence. The American ambassadors refusing to appear in any other character than that of ministers of an independent nation, the mediation was ended.

In the summer of the next year, (1782,) parliament having passed an act authorizing the king to negotiate a peace, the commissioners of the different countries concerned, met for this purpose at Paris. When the negotiation commenced, Dr. Franklin and Mr. Jay only were present. After the negotiation had proceeded to an advanced stage, Mr. Adams arrived from Holland, having concluded a treaty with that government. Mr. Laurens arrived from England two days before the treaty was signed. Mr. Jefferson, owing to the illness of his wife, remained at home. The sagacity, the firmness, and the diplomatic skill evinced by the American commissioners who participated in the negotiation, have been seldom surpassed. The result was favorable to the United States. All that could reasonably be demanded, and more than there was ground to hope for, was secured by the treaty. The United States acquired a guaranty to the western lands back to the Mississippi, and north of the 31st degree of north latitude, which was made the northern line of Florida on that river. They were also to retain the right to the use of the fisheries on the banks of Newfoundland, and in the Gulf of St. Lawrence, and in all other places in the sea where the inhabitants of both countries had been accustomed to fish. The British were to withdraw their armies, garrisons, and fleets, from the United States, without unnecessary delay. The navigation of the Mississippi, from its head to the ocean, was to be free to both parties. Creditors on both sides were to be permitted to recover their debts in sterling money.

The treaty was signed by the parties on the 30th of November, and was to take effect when peace should have been concluded between Great Britain and France. Treaties between these countries and Spain were signed on the 20th of January, 1783. On the 11th of April, congress proclaimed a cessation of hostilities, and, on the 15th, ratified the treaty.

The achievement of the independence of the United States, was not immediately followed by the advantages that had been anticipated. It soon became manifest that something more was essential to individual and national prosperity. The system of government which had been adopted during the war, was found to be ill adapted to a state of peace. The principal defect of the confederation consisted in its weakness. It intrusted to congress the right to declare war; but it did not confer upon that body the power to raise the means of prosecuting a war. It was capable of contracting debts, and of pledging the public faith for their payment;

but it had not the means of discharging its obligations. Congress had no power to lay taxes and collect revenue for the public service. It could only ascertain the sums of money necessary to be raised, and apportion to each state its quota or proportion. The power to lay and collect the taxes was reserved to the states.

Hence it appears that the confederation had little more than advisory powers; and that the operations of the government depended upon the good will of thirteen distinct and independent sovereignties. As a natural consequence, delays in collecting taxes were not unfrequent. Even during the war, under the pressure of a common danger, the requisitions of congress upon the states for men and money to carry on the war, were often either tardily obeyed, or entirely disregarded; and, but for the loans which were fortunately obtained by congress from France and Holland, it is doubtful whether the war could have been successfully prosecuted. After the return of peace, congress was unable to obtain from the states money sufficient to pay even the interest of the public debt; and the affairs of the country were in a state of extreme embarrassment. The federal treasury was empty; the faith of the nation broken; the public credit sunk, or rapidly sinking, and the public burthens increasing.

The congress of 1783, deeply solicitous for the honor and interests of the nation, agreed upon a measure, the object of which was "to restore and support public credit," by obtaining from the states "substantive funds for funding the whole debt of the United States." These funds were to be raised in part by duties on goods imported, and in part by internal taxation. To the amount necessary for this purpose, each state was to contribute in proportion to its population.

This measure was recommended to the several states, and the recommendation was accompanied by an address prepared by a committee, consisting of Mr. Madison, Mr. Hamilton, and Mr. Ellsworth, urging its adoption by considerations of justice, good faith, and the national honor. Gen. Washington also, in a letter addressed to the governors of the several states on the condition of public affairs, took occasion to add the weight of his influence to that of congress, in favor of the plan. Although a favorable impression was made by this appeal from one who shared so largely the public confidence and esteem, the recommendation did not receive the assent of all the states.

Congress, however, continued to urge the measure upon the states, until 1786, when the plan was materially modified. That part of it which applied for the internal taxes having met with the greatest opposition, congress, deeming a partial compliance with the original recommendation highly desirable at such a crisis, requested authority "to carry

into effect that part only which related to import duties." With this request, the states, except New York, promptly complied. This state also had passed an act on the subject, but denied to the federal government the power to collect the duties. It reserved to itself not only this right, but the right of paying the duties in its own bills of credit which it had emitted, and which were liable to depreciation. The governor, George Clinton, was requested to call a special meeting of the legislature to reconsider the subject. The governor replied, that he had power to convene the legislature only on extraordinary occasions; and as this subject had already been before them, the occasion was not one that would authorize the calling of a special session: consequently the plan was defeated.

Another material defect of the confederation, was the want of power to regulate foreign and domestic commerce. Indispensable to the accomplishment of this object, is the power to establish a uniform system of duties. Each state having reserved the right to regulate its own trade, imposed upon foreign productions, as well as upon those from its sister states, such duties as its own exclusive interests seemed to dictate. Hence, a rate of duties which was favorable to the citizens of one state, was deemed by those of other states highly prejudicial to them. The jealousies, rivalries, and mutual resentments to which this system gave rise, caused apprehensions of serious collision between some of the states.

Foreign nations, availing themselves of the advantages to be derived from the discordant legislation of the states, passed such laws as they judged most likely to destroy our commerce and to extend their own. The rigorous policy of Great Britain operated more unfavorably than that of any other nation. The trade with the British West India colonies was prohibited; and, by enforcing her navigation acts, which secured special privileges to British shipping, our navigation was almost annihilated. Foreign goods and vessels were freely admitted into the states, while ours were heavily burthened with duties in foreign ports. American trade being thus subject to the control of foreign legislation, the prices of imported goods were enhanced, and those of our exports were reduced at the will of foreigners; and the little money still in the hands of our citizens was rapidly passing into the pockets of British merchants and manufacturers.

To counteract the effects of this system of Great Britain upon our trade, it was deemed necessary to oppose her commerce with similar restrictions. It was believed that restraints upon her trade would induce her to relax the rigor of her policy. But the absence of all power in the federal government to regulate commerce, and the difficulty of prevailing upon thirteen independent rival states to concur in any effective

measure of this kind, rendered the object hopeless. Congress recommended to the states, (1784,) to authorize the general government, for the term of fifteen years, to prohibit the importation or exportation of goods, in vessels belonging to, or navigated by, the subjects of any power with whom the United States had not formed commercial treaties; and to prohibit the subjects of any foreign nation, unless authorized by treaty, from importing into the United States any goods not the produce or manufacture of the nation whose subjects they were. But the requisite power could not be obtained.

Endeavors were also made to obtain relief by forming commercial treaties with foreign powers; and commissioners were appointed for that purpose. Principles upon which treaties were to be formed, drawn up by Mr. Jefferson, were adopted; and John Adams, Dr. Franklin, and Mr. Jefferson, (the latter in the place of Mr. Jay, who was about to return to the United States,) were authorized to negotiate treaties conformable to those principles. With none of the principal powers of Europe, however, was any such treaty effected. In February, 1785, John Adams, then in Europe, was appointed minister plenipotentiary to Great Britain, to settle our commercial relations with that country upon terms more advantageous to the United States, as well as to adjust certain other difficulties that had arisen between the two countries. But the mission in respect to both objects was unsuccessful. Great Britain having already every advantage she could desire, and aware that the United States, under the confederation, could neither form a treaty that would be binding upon individual states, nor countervail her restrictive policy, declined entering into a treaty by which she would be sure to yield something without an equivalent.

The difficulties to which allusion has just been made, were the non-fulfillment and alleged infractions of the treaty of peace. The United States complained that the western military posts were still occupied by the British, contrary to an express provision of the treaty; and that the retiring British army had carried away slaves belonging to the United States. Great Britain, on the other hand, alleged that some of the states had interposed obstacles to the collection of British debts, in violation of a treaty stipulation; and that certain other articles of the treaty had not been observed. Congress, to remove all just ground of complaint on the part of Great Britain, recommended to the states the repeal of all laws repugnant to the treaty of peace, which was accordingly done by all the states in which such laws existed. Mr. Adams continued in England until October, 1787, when, the British court still declining to enter into a commercial treaty, or even to appoint a minister to the United States, he was, at his own request, recalled.

Soon after the appointment of Mr. Adams, in 1785, Dr. Franklin, minister to France, after an absence of nine years, having obtained leave to return home, Mr. Jefferson was appointed in his place. In March, 1784, Mr. Jay, in anticipation of his return from Europe, was appointed secretary of foreign affairs, the office having been vacated by the resignation of Mr. Livingston.

About this time a dispute arose with Spain concerning boundaries and the navigation of the Mississippi. The Floridas having been ceded to Spain by Great Britain, the former claimed a more northern boundary to her territory, and the right to exclude Americans from the navigation of the Mississippi. In the summer of 1785, a negotiation was commenced between Mr. Jay, secretary of foreign affairs, and the Spanish minister, Don Diego Gardoqui, recently arrived. Without having reached a conclusion before the formation of the constitution, the negotiation was suspended, to be renewed under the new government.

The condition of the country had become almost desperate, and was evidently approaching, if it had not already reached, a crisis. The immense debt contracted by congress and the states individually, during the war, was pressing heavily upon the people; and their embarrassment was greatly increased by private indebtedness. Relief was attempted in some states by the issue of paper money; in others, personal property, at an appraised value, was made a tender in payment of debts.

Driven to desperation by customs, taxes, and excises in the state of Massachusetts, to meet the public engagements, and by prosecutions at law for private debts, a large number of the people in some parts of that state rose in opposition to the laws. In several counties, proceedings in the courts of justice were obstructed; and fears were entertained that the government would be overthrown. So formidable was the insurrection, that the federal government was applied to for aid in suppressing it. But by the vigorous measures of the state authorities, the rebellion was quelled without the aid of the general government. The insurgents numbered about two thousand. Their chief leader was Daniel Shays. Hence this occurrence is usually designated, "Shays' rebellion," or "Shays' insurrection." Fourteen of the insurgents were convicted of treason, and sentenced to death; and a large number were convicted of sedition. But to such extent did they share the sympathies of the people, as to render their execution unsafe. Moderate penalties only were imposed.

The pecuniary distress of the country was greatly aggravated by large importations of foreign goods, under circumstances which deprived the people of the means of paying for them, and which it was impossible to avoid. The market for agricultural products which the armies of the

several belligerent nations had furnished during the war, no longer existed. Great Britain had not only subjected our products to ruinous duties in her ports, but prohibited our trade with her West India colonies, which had furnished the principal means of paying for British goods. The non-importation and non-consumption agreements, and the war, had created and encouraged domestic manufactures, which were now supplanted by foreign fabrics, admitted almost duty free. The imports from Great Britain, in 1784 and 1785, amounted in value to thirty millions of dollars, while the exports from the United States to that country were only nine millions; and there was no power in the government to restrain this excessive importation, or to countervail the restrictions upon our commerce.

The impotence of the government began to appear soon after the articles of confederation had been adopted; and a convention to revise and amend them was recommended by several of the state legislatures. But this recommendation was not generally responded to. One of the causes which prevented an earlier revision of the articles, was state jealousy; or, as expressed by Washington, "the disinclination of the individual states to yield competent powers to congress for the federal governments, and their unreasoning jealousy of that body and of one another." And as no alteration could be made without the assent of all the states, there was little encouragement to any efforts for a convention.

No relief being expected from an amendment of the confederation, the legislatures of Maryland and Virginia, in 1785, appointed commissioners to form a compact respecting the navigation of the rivers Potomac and Roanoke, and part of the Chesapeake bay. The commissioners met at Alexandria, in March; but for the want of adequate power to effect any important object, they agreed to recommend to their respective governments the appointment of new commissioners to make arrangements, subject to the assent of congress, for maintaining a naval force in the Chesapeake, and to fix a tariff of duties on imports which should be enforced by the laws of both states. The legislature of Virginia, when acting upon these propositions, passed a resolution requesting all the states to send deputies to the meeting, to coöperate on the subject of duties on imports. And a few days after, viz. : on the 21st of January, 1786, another resolution was adopted, proposing a convention of commissioners from all the states, to take into consideration the state of trade, and the expediency of a uniform system of commercial regulations for their common interest and permanent harmony. The commissioners met at Annapolis, in September, the place and time proposed. Only Virginia, Pennsylvania, Delaware, New Jersey, and New York, were represented. Delegates were appointed by New Hampshire, Massachusetts, Rhode Island, and North Carolina, but they did not attend. Finding their powers too limited, and the number of states represented

too small to effect the objects contemplated, the convention framed a report to be made to their respective states, and also to be laid before congress, advising the calling of a general convention of deputies from all the states, to meet in Philadelphia, on the second Monday in May, 1787, for a more extensive revision of the articles of confederation.

Virginia was the first state that appointed delegates to the proposed convention, and was followed by several others before the report of the Annapolis convention was disposed of by congress. A resolution was passed by that body in February, 1787, concurring in the recommendation for a convention. Delegates were appointed by all the states except Rhode Island.

It has been already stated, that the states of New York and Virginia had made cessions of their western lands to the general government. In 1783, congress requested that those states which had not already done so, should cede portions of their territory, as a fund to aid in payment of the public debt. Connecticut, in 1784, ceded her claim to all lands lying one hundred and twenty miles west of the western boundary of Pennsylvania—the portion reserved, being that which is known as the Connecticut or “Western Reserve.” Massachusetts ceded in 1785. Having by these cessions come into possession of all the lands north-west of the Ohio, congress, in July, 1787, while the constitutional convention was in session, passed an ordinance establishing a form of government for the inhabitants of the territory.

As early as 1784, Mr. Jefferson, then a member of congress, submitted a plan of government for all the western territory, from the southern to the northern boundary of the United States, all of which was expected to be ceded by the states claiming the same. By this plan, seventeen states were to be formed from this territory. One of its provisions was, “that, after the year 1800, there shall be neither slavery nor involuntary servitude in any of the said states, other than in the punishment of crimes, whereof the party shall have been duly convicted.” The report, embraced in a series of resolutions, was adopted, except the proviso; which, not having seven states in its favor, was struck out. The four New England states, with New York and Pennsylvania, voted for it; Maryland, Virginia, and South Carolina against it. North Carolina was divided; New Jersey had only one delegate present, and therefore had no vote; and Delaware and Georgia were absent. This rejected provision was again proposed, the next year, by Mr. Rufus King, (then of Massachusetts,) with the additional provision, “that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original states, and each of the states described in the resolve.” The proposition again failed.

The ordinance of 1787, embracing in part the plan submitted by Mr. Jefferson, in 1784, was reported by Nathan Dane, of Massachusetts.

The legislative, executive, and judicial powers were vested in a governor and three judges, who, with a secretary, were to be appointed by congress; the governor for three years, the judges during good behavior. The laws of the territory were to be such laws of the original states, as the governor and judges should think proper to adopt. These laws were to be in force until disapproved by congress. When the territory should contain five thousand free male inhabitants of full age, there was to be a legislature, to consist of two branches; a house of representatives, the members to be chosen from the several counties or townships, for the term of two years, and a legislative council of five persons who were to hold their offices for five years, and to be appointed by congress out of ten persons previously nominated by the house of representatives of the territory. All laws were required to be consistent with the ordinance, and to have the assent of the governor. The ordinance concludes with six articles of compact between the original states and the people of the territory, to be unalterable except by common consent. The first secures entire religious freedom; the second, trial by jury, the writ of *habeas corpus*, and the other fundamental rights usually inserted in bills of rights; the third provided for the encouragement and support of schools, and enjoined good faith towards the Indians; the fourth placed the new states to be formed out of the territory upon an equal footing with the old ones, both in respect to their privileges and their burdens, and reserved to the United States the right to dispose of the soil; the fifth authorized the future division of the territory into not less than three nor more than five states, each state to be admitted into the union, when it should contain sixty thousand free inhabitants; the sixth was the anti-slavery proviso introduced by Mr. Jefferson in 1784, so modified, however, as to take effect immediately.

This ordinance, which left the territory south of the Ohio, (then not yet ceded,) subject to future regulation, received the unanimous vote of the eight states present: Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia. One member only (Mr. Yates, of New York) voted in the negative; that state being determined in the affirmative by the votes of his two colleagues. This unanimous support of this measure by the southern states present, is variously accounted for. Mr. Benton, (View, vol. 1, p. 135,) says: "The fact is, that the south only delayed its vote for the anti-slavery clause in the ordinance for want of the provision in favor of recovering fugitives from service." If so, his information is derived from some other source than the journals of congress. In the absence of positive information, the more probable reason is, that Mr. Jefferson's proposition embraced the territory *south* of the Ohio, from which, it is presumed, the south did not wish slavery to be excluded.

CHAPTER IV.

PROCEEDINGS OF THE CONVENTION IN FORMING THE CONSTITUTION.

THE day appointed for the assembling of the convention to revise the articles of confederation, was the 14th of May, 1787. Delegations from a majority of the states did not attend until the 25th; on which day the business of the convention commenced. The delegates from New Hampshire did not arrive until the 23d of July. Rhode Island did not appoint delegates.

A political body combining greater talents, wisdom, and patriotism, or whose labors have produced results more beneficial to the cause of civil and religious liberty, has probably never assembled. The two most distinguished members were Washington and Franklin; to whom the eyes of the convention were directed for a presiding officer. Washington, having been nominated by Lewis Morris, of Pennsylvania, was elected president of the convention. William Jackson was appointed secretary.

The rules of proceeding adopted by the convention, were chiefly the same as those of congress. A quorum was to consist of the deputies of at least seven states; and all questions were to be decided by the greater number of those which were fully represented—at least two delegates being necessary to constitute a full representation. Another rule was the injunction of secrecy upon all their proceedings.

The first important question determined by the convention was, whether the confederation should be amended, or a new government formed. The delegates of some states had been instructed only to amend. And the resolution of congress sanctioning the call for a convention, recommended it "for the sole and express purpose of revising the articles of confederation." A majority, however, considering the plan of confederation radically defective, resolved to form "a national government, consisting of a supreme judicial, legislative, and executive." The objections to the new system on the ground of previous instructions, was deemed of little weight, as any plan that might be agreed on, would necessarily be submitted to the people of the states for ratification.

In conformity with this decision, Edmund Randolph, of Virginia, on the 29th of May, offered fifteen resolutions, containing the outlines of a plan of government for the consideration of the convention. These

resolutions proposed—That the voice of each state in the national legislature, should be in proportion to its taxes, or to its free population; that the legislature should consist of two branches, the members of the first to be elected by the people of the states, those of the second to be chosen by the members of the first, out of a proper number of persons nominated by the state legislatures; and the national legislature to be vested with all the powers of congress under the confederation, with the additional power to legislate in all cases to which the separate states were incompetent; to negative all state laws which should, in the opinion of the national legislature, be repugnant to the articles of union, or to any treaty subsisting under them; to call out the force of the union against any state refusing to fulfill its duty :

That there should be a national executive, to be chosen by the national legislature, and to be ineligible a second time. The executive, with a convenient number of the national judiciary, was to constitute a council of revision, with a qualified negative upon all laws, state and national:

A national judiciary, the judges to hold their offices during good behavior.

In discussing this plan, called the "Virginia plan," the lines of party were distinctly drawn. We have already had occasion to allude to the jealousy, on the part of states, of the power of the general government. A majority of the peculiar friends of state rights in the convention, were from the small states. These states, apprehending danger from the overwhelming power of a strong national government, as well as from the combined power of the large states represented in proportion to their wealth and population, were unwilling to be deprived of their equal vote in Congress. Not less strenuously did the friends of the national plan insist on a proportional representation. This opposition of sentiment, which divided the convention into parties, did not terminate with the proceedings of that body, but has at times marked the politics of the nation, down to the present day. It is worthy of remark, however, that the most jealous regard for state rights now prevails in states in which the plan of a national government then found its ablest and most zealous advocates.

The plan suggested by Mr. Randolph's resolutions, was the subject of deliberation for about two weeks, when, having been in several respects modified in committee, and reduced to form, it was reported to the house. It contained the following provisions :

A national legislature to consist of two branches, the first to be elected by the people for three years; the second to be chosen by the state legislatures for seven years, the members of both branches to be apportioned on the basis finally adopted; the legislature to possess powers

nearly the same as those originally proposed by Mr. Randolph. The executive was to consist of a single person to be chosen by the national legislature for seven years, and limited to a single term, and to have a qualified veto; all bills not approved by him, to be passed by a vote of three-fourths of both houses in order to become laws. A national judiciary to consist of a supreme court, the judges to be appointed by the second branch of the legislature for the term of good behavior, and of such inferior courts as congress might think proper to establish.

This plan being highly objectionable to the state rights party, a scheme agreeable to their views was submitted by Mr. Patterson, of New Jersey. This scheme, called the "New Jersey plan," proposed no alteration in the constitution of the legislature, but simply to give it the additional power, to raise a revenue by duties on foreign goods imported, and by stamp and postage taxes; to regulate trade with foreign nations and among the states; and, when requisitions made upon the states were not complied with, to collect them by its own authority. The plan proposed a federal executive, to consist of a number of person selected by congress; and a federal judiciary, the judges to be appointed by the executive, and to hold their offices during good behavior.

The Virginia and New Jersey plans were now (June 19th) referred to a new committee of the whole. Another debate arose, in which the powers of the convention was the principal subject of discussion. It was again urged that their power had been, by express instruction, limited to an amendment of the existing confederation, and that the new system would not be adopted by the states. The vote was taken on the 19th, and the propositions of Mr. Patterson were rejected; only New York, New Jersey, and Delaware, voting in the affirmative; seven states in the negative; and the members from Maryland equally divided.

Mr. Randolph's propositions, as modified and reported by the committee of the whole, were now taken up and considered separately. The division of the legislature into two branches, a house of representatives and a senate, was agreed to almost unanimously, one state only, Pennsylvania, dissenting; but the proposition to apportion the members to the states, according to population, was violently opposed. The small states insisted strenuously on retaining an equal vote in the legislature; but at length consented to a proportional representation in the house, on condition that they should have an equal vote in the senate.

Accordingly, on the 29th of June, Mr. Ellsworth, of Connecticut, offered a motion, "that in the second branch, each state shall have an equal vote." This motion gave rise to a protracted and vehement debate. It was supported by Messrs. Ellsworth, Baldwin, of Georgia, Bradford, of Delaware, and others. It was urged on the ground of the

necessity of a compromise between the friends of the confederation and those of a national government, and as a measure which would secure tranquillity, and meet the objections of the larger states. Equal representation in one branch would make the government partly federal, and a proportional representation in the other, would make it partly national. Equality in the second branch would enable the small states to protect themselves against the combined power of the large states. Fears were expressed, that without this advantage to the small states, it would be in the power of a few large states to control the rest. The small states, it was said, must possess this power of self-defense, or be ruined.

The motion was opposed by Messrs. Madison, Wilson, of Pennsylvania, King, of Massachusetts, and Dr. Franklin. Mr. Madison thought there was no danger from the quarter from which it was apprehended. The great source of danger to the general government was the opposing interests of the north and the south, as would appear from the votes of congress, which had been divided by geographical lines, not according to the size of the states. Mr. Wilson objected to state equality, that it would enable one-fourth of the union to control three-fourths. Respecting the danger of the three larger states combining together to give rise to a monarchy or an aristocracy, he thought it more probable that a rivalry would exist between them, than that they would unite in a confederacy. Mr. King said the rights of Scotland were secure from all danger, though in the parliament she had a small representation. Dr. Franklin, (now in his eighty-second year) said as it was not easy to see what the greater states could gain by swallowing up the smaller; he did not apprehend they would attempt it. In voting by states—the mode then existing—it was equally in the power of the smaller states to swallow up the greater. He thought the number of representatives ought to bear some proportion to the number of the represented.

On the 2d of July, the question was taken on Mr. Ellsworth's motion, and lost—Connecticut, New York, New Jersey, Delaware, and Maryland, voting in the affirmative; Massachusetts, Pennsylvania, Virginia, North Carolina, and South Carolina, in the negative; Georgia divided. It will be remembered, that the delegates from New Hampshire were not yet present, and that Rhode Island had appointed none. This has been regarded by some as a fortunate circumstance; as the votes of these two small states would probably have given an equal vote to the states in both houses, if not have defeated the plan of a national government.

The excitement now became intense, and the convention seemed to be on the point of dissolution. Luther Martin, of Maryland, who had taken a leading part in advocating the views of the state rights party,

said each state must have an equal vote, or the business of the convention was at an end. It having become apparent that this unhappy result could be avoided only by a compromise, Mr. Sherman, of Connecticut, moved the appointment of a committee of conference, to consist of one member from each state, and the motion prevailed. The convention then adjourned for three days, thus giving time for consultation. and an opportunity to celebrate the anniversary of independence.

The report of this committee, which was made on the 5th of July, proposed, (1.) That in the first branch of the legislature, each state should have one representative for every forty thousand inhabitants, (three-fifths of the slaves being counted;) that each state not containing that number should be allowed one representative; and that money bills should originate in this branch. (2.) That in the second branch each state should have one vote. These propositions were reported, it is said, at the suggestion of Dr. Franklin, one of the committee of conference.

The report, of course, met with greater favor from the state rights party, than from their opponents. The equal vote in the senate continued to receive the most determined opposition from the national party. In relation to the rule of representation in the first branch of the legislature, also, a great diversity of opinion prevailed. The conflicting interests to be reconciled in the settlement of this question, however, were those of the northern and southern, commercial and planting, rather than the imaginary interests of small and large states.

In settling a rule of apportionment, several questions were to be considered. What should be the number of representatives in the first branch of the legislature? Ought the number from each state to be fixed, or to increase with the increase of population? Ought population alone to be the basis of apportionment? or should property be taken into account? Whatever rule might be adopted, no apportionment founded upon population could be made until an enumeration of the inhabitants should have been taken. The number of representatives was therefore, for the time being, fixed at sixty-five, and apportioned as directed by the constitution. [Art. I, § 2.]

In establishing a rule of future apportionment, great diversity of opinion was expressed. Although slavery then existed in all the states except Massachusetts, the great mass of the slave population was in the southern states. These states claimed a representation according to numbers, bond and free, while the northern states were in favor of a representation according to the number of free persons only. This rule was forcibly urged by several of the northern delegates. Mr. Patterson regarded slaves only as property. They were not represented in the states; why should they be in the general government? They were not

allowed to vote; why should they be represented? It was an encouragement of the slave trade. Said Mr. Wilson: "Are they admitted as citizens? then why not on an equality with citizens? Are they admitted as property? then why is not other property admitted into the computation?" A large portion of the members of the convention, from both sections of the union, aware that neither extreme could be carried, favored the proposition to count the whole number of free citizens and three-fifths of all others.

Prior to this discussion, a select committee, to whom this subject had been referred, had reported in favor of a distribution of the members on the basis of wealth and numbers, to be regulated by the legislature. Before the question was taken on this report, a proviso was moved and agreed to, that direct taxes should be in proportion to representation. Subsequently a proposition was moved for reckoning three-fifths of the slaves in estimating taxes, and making taxation the basis of representation, which was adopted; New Jersey and Delaware against it, Massachusetts and South Carolina divided; New York not represented, her three delegates being all absent. Yates and Lansing, both of the state rights party, considering their powers explicitly confined to a revision of the confederation, and being chagrined at the defeat of their attempts to secure an equal vote in the first branch of the legislature, had left the convention, not to return. From that time, (July 11th,) New York had no vote in the convention. Mr. Hamilton had left before the others, to be absent six weeks; and though he returned, and took part in the deliberations, the state, not having two delegates present, was not entitled to a vote. On the 23d, Gilman and Langdon, the delegates from New Hampshire, arrived, when eleven states were again represented.

The term of service of members of the first branch was reduced to two years, and of those of the second branch, to six years; one-third of the members of the latter to go out of office every two years; the representation in this body to consist of two members from each state, voting individually, as in the other branch, and not by states, as under the confederation. Sundry other modifications were made in the provisions relating to this department.

The reported plan of the executive department was next considered. After much discussion, and several attempts to strike out the ineligibility of the executive a second time, and to change the term of office, and the mode of election, these provisions were retained.

The report of the committee of the whole, as amended, was accepted by the convention, and, together with the New Jersey plan, and a third drawn by Charles Pinckney, of South Carolina, was referred to a committee of detail, consisting of Messrs. Rutledge, Randolph, Gorham

Ellsworth, and Wilson, who, on the 6th of August, after an adjournment of ten days, reported the constitution in proper form, having inserted some new provisions, and altered certain others. Our prescribed limits forbid a particular account of the subsequent alterations which the constitution received before it was finally adopted by the convention. There is one provision, however, which, as it forms one of the great "compromises of the constitution," deserves notice.

To render the constitution acceptable to the southern states which were the principal exporting states, the committee of detail had inserted a clause, providing, that no duties should be laid on exports, or on slaves imported; and another, that no navigation act might be passed, except by a two-thirds vote. By depriving congress of the power of giving any preference to American over foreign shipping, it was designed to secure cheap transportation to southern exports. As the shipping was principally owned in the eastern states, their delegates were equally anxious to prevent any restriction of the power of congress to pass navigation laws. All the states, except North Carolina, South Carolina, and Georgia, had prohibited the importation of slaves; and North Carolina had proceeded so far as to discourage the importation by heavy duties. The prohibition of duties on the importation of slaves was demanded by the delegates from South Carolina and Georgia, who declared that, without a provision of this kind, the constitution would not receive the assent of these states. The support which the proposed restriction received from other states, was given to it from a disposition to compromise, rather than from an approval of the measure itself. The proposition not only gave rise to a discussion of its own merits, but revived the opposition to the apportionment of representatives according to the three-fifths ratio, and called forth some severe denunciations of slavery.

Mr. King, in reference to the admission of slaves as a part of the representative population, remarked: "He had not made a strenuous opposition to it heretofore, because he had hoped that this concession would have produced a readiness, which had not been manifested, to strengthen the general government. The report of the committee put an end to all those hopes. The importation of slaves could not be prohibited, exports could not be taxed. If slaves are to be imported, shall not the exports produced by their labor supply a revenue to help the government defend their masters? There was so much inequality and unreasonableness in all this, that the people of the northern states could never be reconciled to it. He had hoped that some accommodation would have taken place on the subject; that at least a time would have been limited for the importation of slaves. He could never agree to let them be imported without limitation, and then he represented in the national legis-

lature. Either slaves should not be represented, or exports should be taxable."

Gouverneur Morris pronounced slavery "a nefarious institution. It was the curse of Heaven on the states where it prevailed. Compare the free regions of the middle states, where a rich and noble cultivation marks the prosperity and happiness of the people, with the misery and poverty which overspread the barren wastes of Virginia, Maryland, and the other states having slaves. Travel through the whole continent, and you behold the prospect continually varying with the appearance and disappearance of slavery. * * * The admission of slaves into the representation, when fairly explained, comes to this, that the inhabitant of Georgia and South Carolina, who goes to the coast of Africa in defiance of the most sacred laws of humanity, tears away his fellow-creatures from their dearest connections, and damns them to the most cruel bondage, shall have more votes in a government instituted for the protection of the rights of mankind, than the citizen of Pennsylvania and New Jersey, who views with a laudable horror so nefarious a practice. * * * And what is the proposed compensation to the northern states for a sacrifice of every principle of right, every impulse of humanity? They are to bind themselves to march their militia for the defense of the southern states, against those very slaves of whom they complain. The legislature will have indefinite power to tax them by excises and duties on imports, both of which will fall heavier on them than on the southern inhabitants; for the Bohea tea used by a northern freeman, will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his physical subsistence and the rag which covers his nakedness. On the other side, the southern states are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack and the difficulty of defense; nay, they are to be encouraged to it by an assurance of having their votes in the national government increased in proportion, and, at the same time, are to have their slaves and their exports exempt from all contributions to the public service." Mr. Morris moved to make the free population alone the basis of representation.

Mr. Sherman, who had on other occasions manifested a disposition to compromise, again favored the southern side. He "did not regard the admission of the negroes as liable to such insuperable objections. It was the freemen of the southern states who were to be represented according to the taxes paid by them, and the negroes are only included in the estimate of the taxes."

After some farther discussion, the question was taken upon Mr. Morris' motion, and lost, New Jersey only voting for it.

With respect to prohibiting any restriction upon the importation of slaves, Mr. Martin, of Maryland, who moved to allow a tax upon slaves imported, remarked : " As five slaves in the apportionment of representatives were reckoned as equal to three freemen, such a permission amounted to an encouragement of the slave trade. Slaves weakened the union which the other parts were bound to protect; the privilege of importing them was therefore unreasonable. Such a feature in the constitution was inconsistent with the principles of the revolution, and dishonorable to the American character."

Mr. Rutledge " did not see how this section would encourage the importation of slaves. He was not apprehensive of insurrections, and would readily exempt the other states from every obligation to protect the south. Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question at present is, whether the southern states shall or shall not be parties to the union. If the northern states consult their interest, they will not oppose the increase of slaves, which will increase the commodities of which they will become the carriers."

Mr. Ellsworth said : " Let every state import what it pleases. The morality or wisdom of slavery is a consideration belonging to the states. What enriches a part enriches the whole, and the states are the best judges of their particular interests."

Mr. C. Pinckney said : " South Carolina can never receive the plan if it prohibits the slave trade. If the states be left at liberty on this subject, South Carolina may perhaps, by degrees, do of herself what is wished, as Maryland and Virginia already have done."

Mr. Sherman concurred with his colleague, (Mr. Ellsworth.) " He disapproved the slave trade ; but as the states now possessed the right, and the public good did not require it to be taken away ; and as it was expedient to have as few objections as possible to the proposed scheme of government, he would leave the matter as he found it. The abolition of slavery seemed to be going on in the United States, and the good sense of the several states would probably, by degrees, soon complete it."

Mr. Mason said : " Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the immigration of whites, who really enrich and strengthen a country. They produce a pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. He lamented that some of our eastern brethren, from a lust of gain, had embarked in this nefarious traffic. As to the states being in possession of the right to import, that was the case of many other rights now to be given up. He held it essential, in every point of view, that the general government should have power to prevent the increase of slavery."

Mr. Ellsworth, not well pleased with this thrust at his slave-trading friends at the north, by a slave holder, tartly replied : " As I have never owned a slave, I can not judge of the effects of slavery on character ; but if slavery is to be considered in a moral light, the convention ought to go further, and free those already in the country." The opposition of Virginia and Maryland to the importation of slaves he attributed to the fact, that, on account of their rapid increase in those states, " it was cheaper to raise them there than to import them, while in the sickly rice swamps foreign supplies were necessary. If we stop short with prohibiting their importation, we shall be unjust to South Carolina and Georgia. Let us not intermeddle. As population increases, poor laborers will be so plenty as to render slaves useless. Slavery, in time, will not be a speck in our country."

Delegates from South Carolina and Georgia, repeated the declaration, that, if the slave trade were prohibited, these states would not adopt the constitution. Virginia, it was said, would gain by stopping the importation, she having slaves to sell ; but it would be unjust to South Carolina and Georgia, to be deprived of the right of importing. Besides, the importation of slaves would be a benefit to the whole union. The more slaves, the more produce, the greater carrying trade, the more consumption, the more revenue."

The injustice of exempting slaves from duty, while every other import was subject to it, having been urged by several members in the course of the debate, C. Pinckney expressed his consent to a tax not exceeding the same on other imports, and moved to refer the subject to a committee. The motion was seconded by Mr. Rutledge, and at the suggestion of G. Morris, was so modified as to include the clauses relating to navigation laws and taxes on exports. The commitment was opposed by Messrs. Sherman and Ellsworth ; the former on the ground that taxes on slaves imported implied that they were property ; the latter from the fear of losing two states. Mr. Randolph was in favor of the motion, hoping to find some middle ground upon which they could unite. The motion prevailed, and the subject was referred to a committee of one from each state. The committee retained the prohibition of duties on exports ; struck out the restriction on the enactment of navigation laws ; and left the importation of slaves unrestricted, until the year 1800 ; permitting congress, however, to impose a duty upon the importation.

The debate upon this report of the grand committee, is condensed, by Hildreth, into the two following paragraphs :

" Williamson declared himself, both in opinion and practice, against slavery ; but he thought it more in favor of humanity from a view of all circumstances, to let in South Carolina and Georgia on these terms,

than to exclude them from the union. Sherman again objected to the tax, as acknowledging men to be property. Gorham replied, that the duty ought to be considered, not as implying that men are property, but as a discouragement to their importation. Sherman said the duty was too small to bear that character. Madison thought it "wrong to admit, in the constitution, the idea that there could be property in man;" and the phraseology of one clause was subsequently altered to avoid any such implication. G. Morris objected that the clause gave congress power to tax freemen imported; to which Mason replied, that such a power was necessary to prevent the importation of convicts. A motion to extend the time from 1800 to 1808, made by C. C. Pinkney, and seconded by Gorham, was carried against New Jersey, Pennsylvania, Delaware, and Virginia; Massachusetts, Connecticut, and New Hampshire voting this time with Georgia and South Carolina. That part of the report which struck out the restriction on the enactment of navigation acts, was opposed by Charles Pinckney in a set speech, in which he enumerated five distinct commercial interests; the fisheries and West India trade, belonging to New England; the interest of New York in a free trade; wheat and flour, the staples of New Jersey and Pennsylvania; tobacco, the staple of Maryland and Virginia, and partly of North Carolina; rice and indigo, the staples of South Carolina and Georgia. The same ground was taken by Williamson and Mason, and very warmly by Randolph, who declared that an unlimited power in congress to enact navigation laws, 'would complete the deformity of a system having already so many odious features, that he hardly knew if he could agree to it.' Any restriction of the power of congress over commerce was warmly opposed by Gouverneur Morris, Wilson and Gorham. Madison also took the same side. C. C. Pinckney did not deny that it was the true interest of the south to have no regulation of commerce; but considering the commercial losses of the eastern states during the revolution, their liberal conduct toward the views of South Carolina, (in the vote just taken, giving eight years' further extension to the slave trade,) and the interest of the weak southern states in being united with the strong eastern ones, he should go against any restriction on the power of commercial regulation. 'He had himself prejudices against the eastern states before he came here, but would acknowledge that he found them as liberal and candid as any men whatever.' Butler and Rutledge took the same ground, and the same report was adopted, against the votes of Maryland, Virginia, North Carolina, and Georgia.

"Thus, by an understanding, or, as Gouverneur Morris called it, 'a bargain,' between the commercial representatives of the northern states, and the delegates of South Carolina and Georgia, and in spite of the

opposition of Maryland and Virginia, the unrestricted power of congress to pass navigation laws was conceded to the northern merchants, and to the Carolina rice planters, as an equivalent, twenty years' continuance of the African slave-trade. This was the third great compromise of the constitution. The other two were the concessions to the smaller states of an equal representation in the senate, and, to the slaveholders, the counting of three-fifths of the slaves in determining the ratio of representation. If this third compromise differed from the other two by involving not only a political, but a moral sacrifice, there was this partial compensation about it, that it was not permanent, like the others, but expired at the end of twenty years by its own limitation."

Of the important subjects remaining to be disposed of, that of the executive department was, perhaps, the most difficult. The modified plan of Mr. Randolph left the executive to be elected by the legislature for a single term of seven years. The election was subsequently given to a college of electors, to be chosen in the states in such manner as the legislatures of the states should direct. The term of service was reduced from seven to four years; and the restriction of the office to a single term was removed. Numerous other amendments and additions were made in going through with the draft. This amended draft was referred, for final revision, to a committee consisting of Messrs. Hamilton, Johnson, G. Morris, Madison, and King. Several amendments were made even after this revision; one of which was the substitution of a two-thirds for the three-fourths majority required to pass bills against the veto of the president. Another was a proposition of Mr. Gorham, to reduce the minimum ratio of representation from 40,000, as it stood, to 30,000, intended to conciliate certain members who thought the house too small. This was offered the day on which the constitution was signed. Gen. Washington having briefly addressed the convention in favor of the proposed amendment, it was carried almost unanimously.

The whole number of delegates who attended the convention, was fifty-five, of whom thirty-nine signed the constitution. Of the remaining sixteen, some had left the convention before its close; others refused to give it their sanction. Several of the absentees were known to be in favor of the constitution.

Some, as has been observed, were opposed to the plan of a national government, contending for the preservation of the confederation, with a mere enlargement of its powers; others, though in favor of the plan adopted, believed too much power had been given to the general government. Some thought that not only the powers of congress, but those of the executive, were too extensive; others, that the executive was "weak and contemptible," and without sufficient power to defend him-

self against encroachments, by the legislature: others still, that the executive power of the nation ought not to be intrusted in a single person. Although some deprecated the extensive powers of the federal government as dangerous to the rights of the states, "ultra democracy" seems to have had no representatives in the convention; while, on the other hand, there were not a few who thought it unsafe to trust the people with a direct exercise of power in the general government. Sherman and Gerry were opposed to the election of the first branch of the legislature by the people; as were some of the southern delegates. Others, among whom were Madison, Mason, and Wilson, thought no republican government could be permanent in which the people were denied a direct voice in the election of their representatives. Hamilton, though in favor of making the first branch elective, proposed that the senate should be chosen by electors chosen by the people, and the executive by electors *chosen by electors*, who were to be chosen by the people in districts; senators and the president both to hold their offices during good behavior. He was also, as were a few others, in favor of an absolute executive veto on acts of the legislature. He, however, signed the constitution, and urged others to do the same, as the only means of preventing anarchy and confusion. While the proposed constitution was in every particular satisfactory to none, very few were disposed to jeopard the union by the continuance of a system which *all* admitted to be inadequate to the objects of the union. To the hope, therefore, of finding the new plan an improvement on the old, and of amending its defects if any should appear, is to be attributed the general sanction which it received.

It is indeed remarkable, that a plan of government, containing so many provisions to which the most strenuous opposition was maintained to the end, should have received the signatures of so large a majority of the convention. Perhaps there never was another political body, in which views and interests more varied and opposite have been represented, or a greater diversity of opinion has prevailed.

Nor is it less remarkable, that a system deemed so imperfect, not only by the mass of its framers, but by a large portion of the eminent men who composed the state conventions that ratified it, should have been found to answer so fully the purpose of its formation, as to require, during an experiment of more than sixty years, no essential alteration; and that it should be esteemed as a model form of republican government by the enlightened friends of freedom in all countries. Not a single provision of the constitution, as it came from the hands of the framers, except that which prescribed the mode of electing a president and vice-president, has received the slightest amendment. Of the twelve articles styled amendments, the first eleven are merely additions; some of which were

intended to satisfy the scruples of those who objected to the constitution as incomplete without a bill of rights, supposing their common law rights would be rendered more secure by an express guaranty; others are explanatory of certain provisions of the constitution which were considered liable to misconstruction. The twelfth article is the amendment changing the mode of electing the president and vice-president.

In the differences of opinion between the friends and opponents of the constitution, originated the two great political parties into which the people were divided during a period of about thirty years. It is generally supposed that the term "Federalist" was first applied to those who advocated the plan of the present constitution. This opinion, however, is not correct. Those members of the convention who were in favor of the old plan of union, which was a simple *confederation* or *federal alliance* of equal independent states, were called federalists, and their opponents anti-federalists. After the new constitution had been submitted to the people for ratification, its friends, regarding its adoption indispensable to union, took the name of federalists, and bestowed upon the other party that of anti-federalists, intimating that to oppose the adoption of the constitution was to oppose any union of the states.

The new constitution bears date the 17th of September, 1787. It was immediately transmitted to congress, with a recommendation to that body to submit it to state conventions for ratification, which was accordingly done. It was adopted by Delaware, December 7; by Pennsylvania, December 12; by New Jersey, December 18; by Georgia, January 2, 1788; by Connecticut, January 9; by Massachusetts, February 7; by Maryland, April 28; by South Carolina, May 23; by New Hampshire, June 21; which, being the ninth ratifying state, gave effect to the constitution. Virginia ratified June 27; New York, July 26; and North Carolina, conditionally, August 7. Rhode Island did not call a convention.

In Massachusetts, Virginia, and New York, the new constitution encountered a most formidable opposition, which rendered its adoption by these states for a time extremely doubtful. In their conventions were men on both sides who had been members of the national convention, associated with others of distinguished abilities. In Massachusetts there were several adverse influences which would probably have defeated the ratification in that state, had it not been accompanied by certain proposed amendments to be submitted by congress to the several states for ratification. The adoption of these by the convention gained for the constitution the support of Hancock and Samuel Adams; and the question on ratification was carried by one hundred and eighty-seven against one hundred and sixty-eight.

In the Virginia convention, the constitution was opposed by Patrick Henry, James Monroe, and George Mason, the last of whom had been one of the convention of framers. On the other side were John Marshall, Mr. Pendleton, Mr. Madison, George Wythe, and Edmund Randolph, the three last also having been members of the national convention. Mr. Randolph had refused to sign the constitution, but had become one of its warmest advocates. In the convention of this state also, the ratification was aided by the adoption of a bill of rights and certain proposed amendments; and was carried, eighty-eight yeas against eighty nays.

In the convention of New York, the opposition embraced a majority of its members, among whom were Yates and Lansing, members of the general convention, and George Clinton. The principal advocates of the constitution were John Jay, Robert R. Livingston, and Mr. Hamilton. Strong efforts were made for a conditional ratification, which were successfully opposed, though not without the previous adoption of a bill of rights, and numerous amendments. With these, the absolute ratification was carried, thirty-one to twenty-nine.

The ratification of North Carolina was not received by Congress, until January, 1790; and that of Rhode Island, not until June of the same year.

After the ratification of New Hampshire had been received by congress, the ratifications of the nine states were referred to a committee, who, on the 14th of July, 1788, reported a resolution for carrying the new government into operation. The passage of the resolution, owing to the difficulty of agreeing upon the place for the meeting of the first congress, was delayed until the 13th of September. The first Wednesday of January, 1789, was appointed for choosing electors of president, and the first Wednesday of February for the electors to meet in their respective states to vote for president and vice-president; and the first Wednesday, the 14th of March, as the time, and New York as the place, to commence proceedings under the new constitution.

CHAPTER V.

MEETING OF THE FIRST CONGRESS.—A SYSTEM OF FINANCE ADOPTED.—
THE FUNDING OF THE PUBLIC DEBT.—THE SEAT OF GOVERNMENT.

PURSUANT to appointment, congress assembled at New York on the 4th of March, 1789; but a quorum of the house of representatives was not present until the 1st of April, nor of the senate until the 6th. On counting the electoral votes, it appeared that George Washington was unanimously elected president, and that John Adams was, by the next highest number of votes, elected vice-president. On the 30th of April, the oath of office was administered to the president; and soon after, he delivered his inaugural address to the senate and house of representatives.

Many important subjects demanded the immediate attention of congress. The depressed state of commerce, caused by the restrictive policy of foreign nations, which there was no power in the old system to counteract, and the want of revenue adequate to the public necessities, were the chief causes that led to the recent change in the government. These, therefore, were the first objects to receive the attention of congress.

Immediately after the organization of the house, Mr. Madison moved a resolution, declaring the opinion, that certain duties ought to be levied on goods, wares, and merchandise, imported into the United States, and on the tonnage of vessels. A law was accordingly passed, with a preamble declaring it to be "necessary for the support of government, for the discharge of the debts of the United States, and the encouragement of manufactures, that duties be laid on goods, wares, and merchandises imported." This law imposed specific duties on a long list of enumerated articles, and an *ad valorem* duty upon others. The duties on goods imported in American vessels were ten per cent. less than if brought in foreign vessels. An act was also passed, laying discriminating duties on tonnage; American vessels being charged with a duty of six cents a ton; foreign vessels, fifty cents a ton.

The discrimination in favor of American shipping was opposed on the ground that it was insufficient to transport all the produce of the country, and the extra tonnage duty upon foreign vessels would enhance the cost of transportation, and thus operate as a tax upon agriculture, and a premium to navigation.

In reply to this argument, Mr. Madison said, if it was expedient for America to have vessels employed in commerce at all, it would be proper that she should have enough to answer all the purposes intended; to form a school for seamen; to lay the foundation of a navy; and to be able to support herself against the interference of foreigners. Granting a preference to our own navigation would insensibly bring it forward to that perfection so essential to American safety; and though it might produce some little inequality at first, it would soon ascertain its level, and become uniform throughout the union.

A proposition also was adopted by the house of representatives, making a difference in favor of nations which had formed commercial treaties with the United States; but the senate did not assent to the discrimination. North Carolina and Rhode Island, not having acceded to the union, were in the situation of foreign states. By special enactments, however, goods of the growth or manufacture of these states were exempted from foreign duties; and their vessels were to be entitled to the same privileges as those of the United States, until the 15th of January, 1790.

Three auxiliary executive departments were established at this session: the department of foreign affairs—since called department of state—the department of the treasury, and the department of war. These, or similar departments, had for some time existed; but they were now reorganized, and adapted to the new government.

In organizing these departments, the question arose, whether the officers of these departments could be removed by the president alone, or whether the concurrence of the senate was necessary, as in their appointment. In the *Federalist*, (No. lxxvii,) Mr. Hamilton says: "It has been mentioned as one of the advantages to be expected from the coöperation of the senate, in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to *displace* as well as to appoint. A change of the chief magistrate, therefore, would not occasion so vehement or general a revolution in the officers of the government, as might be expected if he were the sole disposer of offices. When a man, in any situation, had given satisfactory evidence of his fitness for it, a new president would be restrained from attempting a change in favor of a person more agreeable to him, by the apprehension that the discountenance of the senate might frustrate the attempt, and bring discredit upon himself."

This construction was supported by Mr. Sherman and Mr. Gerry, both of whom had been members of the general convention, and others. It was argued, that, as the president and senate were associated in making appointments the fair inference was, that they must agree in removals.

This power, in the hands of the president alone, was dangerous to liberty. It was in its nature monarchical, and would convert executive officers into mere instruments of his will.

Among those who maintained the opposite side, were Mr. Madison and Mr. Baldwin, also members of the convention. The executive power was, by the constitution, vested in the president; and the power of removal was in its nature completely executive. The president was required to see the laws faithfully executed; and how could he be answerable for a faithful execution of the laws, without the power of removing an officer whose coöperation was necessary to their execution. Besides, an immediate removal might become necessary; and the public interest might suffer by the delay in convening the senate. After several days' discussion, the question was decided, 34 to 20, in favor of conferring on the president alone the power of removal.

In filling the offices of these departments, Mr. Jefferson was appointed secretary of foreign affairs; Mr. Hamilton, secretary of the treasury; Gen. Knox, of Massachusetts, was continued as secretary of war; and Edmund Randolph was appointed attorney-general.

The judiciary department, also, was established at this session. John Jay, of New York, was appointed chief justice; John Rutledge, of South Carolina, James Wilson, of Pennsylvania, William Cushing, of Massachusetts, Robert Harrison, of Maryland, and John Blair, of Virginia, associate justices.

At this session, the states of Virginia and New York petitioned congress to call a convention to amend the constitution. Congress having no authority to call a convention, a proposition was made by Mr. Madison for recommending to the states the adoption of certain additional articles to the constitution. Twelve articles were agreed to by the constitutional majority of two-thirds of both houses, and proposed to the states. Ten of these articles, being the first ten subjoined to the constitution, were adopted by the states.

Congress adjourned on the 29th of September, to meet on the first Monday of January, 1790. Before the adjournment, by a resolution of both houses, the president was requested to recommend a day of public thanksgiving and prayer, to be observed, "by acknowledging with grateful hearts, the many and signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government, for their safety and happiness."

Among the objects recommended by the president to the attention of congress at its next session, were those of "providing for the common defense;" of "promoting such manufactures as tend to render the people independent on others for essential, particularly for military, supplies."

of "the promotion of science and literature;" and of making "adequate provision for the support of the public credit."

The great measure of the session was the act carrying into effect the last mentioned of these objects. The house had at the preceding session, directed the "secretary of the treasury to prepare a plan for that purpose, and to report the same to the house at its next meeting. The plan of the secretary was accordingly reported on the 14th of January. The foreign debt, due principally to France and individual lenders in Holland, was \$11,710,378, of which about a million and a half was interest. The domestic debt, of which nearly a third was for arrears of interest, was estimated at \$42,414,085. This sum included two millions which was allowed for claims yet unliquidated, principally outstanding continental money. The secretary proposed to assume the debts of the several states, estimated at \$25,000,000, and then to fund the whole debt.

To such a state of depression had the public credit been sunk, that the government paper had been parted with by original creditors for one-sixth to one-eighth of its nominal value; and it was still doubtful whether the government would be able fully to discharge its obligations. Hence, to devise a plan that should maintain the honor and retrieve the credit of the nation, and do perfect justice to all the public creditors, was not an easy task. That any plan within the compass of human ingenuity should receive the unanimous approval of congress, was not to be expected. With respect to the recommendation of the secretary, that the foreign debt should be provided for according to the precise terms of the contract, there was no difference of opinion. But the secretary "regretted, that with respect to the domestic debt, the same unanimity did not prevail."

The secretary supported the several propositions of his report at length, and with great ability. He maintained that no discrimination ought to be made between original holders of the public securities, and present possessors by purchase. He deemed this equally unjust and impolitic; highly injurious even to the original holders, and ruinous to public credit. Nor did he think a difference ought to be permitted to remain between the creditors of the union and those of individual states. Both descriptions of debt, he said, were contracted for the same objects, and were in the main the same. A great part of the debt of the states had been contracted by them on account of the union; and it was most equitable that they should be assumed by the union.

Several plans were submitted by the secretary to the option of congress; neither of which was adopted entire, but together formed the basis of the act subsequently passed. It was proposed to open new loans for the full amount of the domestic debt, including that of the states, and, for

the sums subscribed, to receive in payment certificates of debt held by public creditors. It was proposed, that for every hundred dollars subscribed payable in debt, interest as well as principal, the subscriber should have two-thirds funded on a yearly interest of six per cent., the current rate, (the capital to be redeemable at the pleasure of the government by the payment of the principal,) and should receive the other third in lands of the western territory at their actual value; or, instead of the lands, to have, at the end of ten years, \$26,88 funded at the same rate of interest.

Another proposal was, to have the whole sum funded at a yearly interest of four per cent., irredeemable by any payment exceeding five dollars annually on the hundred, for both principal and interest; and as a compensation for the reduction of interest, \$15,80 on every hundred, payable in land.

There were still other propositions, one of which was, the payment of subscriptions in annuities, on different plans.

An argument of the secretary in favor of funding the debt was, that the provision of a permanent fund for its payment would, by establishing the public credit, enable the government in any emergency, to procure the means of supplying the public necessity. It was said also, that the fluctuation and insecurity incident to an unfunded debt, rendered it a mere commodity, and a precarious one; and being only an object of speculation, the money thus employed was so much diverted from more useful purposes; and thus contributed to the scarcity of money. Whereas, it was well known, that in countries in which the national debt was properly funded, and an object of confidence, it served most of the purposes of money. Such, he believed, would be the result in America, and the capital thus created, "would invigorate all the operations of agriculture, manufactures, and commerce."

The proposition to restrict the government to the payment of so small sums annually toward redeeming the capital of the debt, was intended as an inducement to creditors to consent to the arrangement. The rate of interest was then six per cent.; but it was presumed that, when the public credit should have become firmly established, the government would be able to borrow money at greatly reduced rates; and creditors would be compelled to receive either these low rates of interest, or the payment of the capital. By the proposed arrangement, creditors would be assured, for a long and certain period, a fixed rate of interest, at six per cent., as an equivalent for the reduction of the principal, or the postponement of the interest on a part of it. As creditors were left free to accept or reject the terms offered, those who should not subscribe, were to receive a dividend of the surplus that should remain in the treasury after paying

the interest of the loans. But as the funds to be provided were not expected to produce at present more than four per cent. on the whole debt, only that rate of interest was to be paid. By thus reducing either the principal or the rate of interest, a revenue might be provided sufficient to meet the increased demand upon the treasury caused by the adoption of the proposed measure. For this purpose, the secretary recommended an increase of duties on wines, spirits, tea, and coffee, and an excise tax on home distilled spirits.

"This celebrated report," says Judge Marshall, "which has been the fruitful theme of extravagant praise and bitter censure, merits the more attention, because in the measures which were founded on it, originated the first regular and systematic opposition to the principles on which the affairs of the union were administered."

A great diversity of opinion on this subject prevailed in the house. Hostility to funding systems generally was declared. It was also contended that the United States were not bound to pay the domestic creditors the full amount expressed in their certificates of debt, because the original holders, by parting with them at two shillings and six-pence in the pound, had fixed the value of their claims, and a motion was made, proposing a re-settlement of the debt.

To this proposition it was objected, that creditors had a right to place confidence in the government for the discharge of debts acknowledged to be due according to settlements already made. For a legislature to reduce an ascertained debt, was pronounced unjust, and subversive of every principle on which public contracts are founded. The motion was lost.

Mr. Madison proposed to pay the present holders of certificates the highest price which the debt had borne in the market, and the original holders the residue. It was urged in favor of this proposition, that the original debt was to have been paid in gold and silver; but the creditor had been compelled to take paper at a great loss, in consequence of the default of the debtor, who ought not to take advantage of his default. By paying him the average price at which the debt had been sold, and the original holder the remainder, equal justice would be done to both.

It was said, in reply, that to require the present holders to relinquish a part of their claim, for which they had paid a valuable consideration, would be a violation of contracts, and therefore unconstitutional. It was not the business of the legislature to inquire into private transactions between individuals. If the original creditor had an equitable claim on the present holder, its adjustment belonged to the judicial courts. The misfortune of those who had been obliged, from necessity, to part with their securities, was admitted; but congress could not afford

redress. Purchasers had placed greater confidence in the government than the original holder, and had run a risk in purchasing the paper: they were therefore justly entitled to the full amount of their claims. The interests of the community were promoted by making a public debt transferable; but interference by the government in cases of transfer, would destroy confidence in public engagements. Besides, certificates had passed through several hands, and intermediate purchasers had often suffered as much as the original holder; but for them no relief was proposed. After considerable farther debate, the question was taken, and the amendment proposed by Mr. Madison was rejected, thirty-six to thirteen.

The proposition to assume the debts of the states, was the subject of greater controversy, and a more excited debate, than any other contained in the report.

In opposition to this part of the plan, it was said, that the creditors of the states had not applied to congress for the measure; and it was presumed that they were satisfied with what the states had done for them, and did not wish to exchange their state securities for those of the general government. The task of providing for the real debts of the union was sufficiently arduous, and the assumption of more debts might disenable the government from doing justice to its real creditors. It was said, too, that the debts of the states had not yet been ascertained, and it would be imprudent to assume them until it should be known what were the balances due them from the union, as the augmentation of the debt might impose a burden which would require taxation to a dangerous extent. The states could more effectually, and with less dissatisfaction to the people, provide for the payment of their debts, than the general government. The assumption would be unjust also, as the consumers of foreign articles would bear the whole expense of the war, except the very trifling revenues to be derived from postage and excise on distilled spirits. It would be unjust to those states which had already taxed themselves heavily to discharge their debts, as they would be obliged to bear an equal share of the burden with others which had made little exertion to diminish theirs. It was objected, too, that if the general government was made to pay all the debts, it must have all the revenue, which was, in effect, to have all the power. This would give too much importance to the federal government, and lessen the importance of the state governments, and lead to too close a consolidation of the union. Besides, the measure did not appear to be constitutional, no power having been granted to the general government to assume the debts of the states.

It was farther objected, that by the proposed augmentation of the debt of the union, it would be perpetuated. A public debt was not a public

blessing, as some seemed to think, but an evil; and to increase it by adding to it the debts of the states, would increase the evil, and impair the public credit; it was the character of paper to diminish in value, in proportion to the quantity in circulation. These debts, too, if assumed by the union, would, as the continental debt had already done, accumulate in the larger cities, and in the hands of foreigners; and the greater portion of the money for which the people were taxed, would go out of the country.

It was urged also, that a portion of the state debts had been contracted for purposes strictly local; and it was impossible to distinguish these debts, in all cases, from those contracted for general objects. The creditors in some states might come into the measure, while in others they refused: this would render it difficult, if not impossible, to carry the system into effect. Nor was it probable that any general system of internal taxation would be acceptable to all the states. Each state, therefore, ought to be left free to adopt such a system of revenue as it should deem best adapted to its circumstances.

In favor of assumption it was said, that one body could more efficiently draw forth the resources of the union than many. These debts must be paid, either by the general government or by the respective states; and it could be done with greater ease and facility, and with less expense, under one general uniform system. Some states derived their revenue from excise; and if, as was contemplated by the proposed plan, excises should be laid by the general government also, there would be a clashing of the two systems. To the objection, that the amount of state debts had not been ascertained, it was answered that it had been ascertained not to exceed twenty-five millions; and congress might be restricted to that amount. It had been said, that the merits of particular claims were not known. They had been proved to the satisfaction of the states, and that was a sufficient guarantee of their justice. If it was for the true interest of the United States and of the claimants, to adopt the measure, it was unnecessary to wait for applications. If the creditors chose to change their state securities for those of the United States, the states surely could have no objection: they had nothing to do with the transaction. When the domestic debt should be funded, the most productive revenues would be taken away from the states and their ability to pay would be lessened; and the state creditors would prefer the paper of the United States, which would be better provided for. But if any state creditors should refuse to subscribe, let the states receive the money from the general government, and pay it over to their creditors.

To the alleged injustice of throwing the burden upon the consumers of foreign articles, it was replied, that *all* classes of inhabitants were consumers of foreign goods; and the rich families consumed much more than

the poor. It had been said to be unjust to tax states that had made great exertions to pay their debts, equally with those that had not. To this it was answered, that every state must be considered to have exerted itself to the extent of its resources; and whether it was unable or unwilling to do justice to its creditors, the union was equally bound to assume its debts.

To the argument that this measure would lessen the influence of the state governments, it was replied, that congress, as well as the state legislatures, derived their authority from the people, who could apply the remedy to the abuse of power by their representatives.

It was said farther, in favor of assumption, that the war had been one in which the states had made common cause. Its object had been the liberty and independence, not of any particular state, but of all the states; and the debts of the states had not been contracted for their individual benefit, but for the benefit of the union, and to promote a cause in which all the states had an equal interest. For the means of payment, the states had relied upon imposts, which constituted their principal fund. By the constitution their power over imposts had been assumed by the federal government, which ought now to assume their debts. The measure was also constitutional. The confederation authorized congress to raise money; but congress not being able to do it directly or immediately, did it mediately through the state governments: hence, these debts, having been contracted in compliance with the requisitions of congress, were to be considered the debts of the union.

Creditors of the states and those of the United States ought to be placed upon the same footing. Some states, possessing greater resources, might make ample provision for the payment of their debts; while others, having less means and a larger debt, might be unable to do their creditors justice. The states, deprived of the power to lay imposts, must have recourse to direct taxes and excises. These, on account of the inequality of their debts, would be very unequal in the different states. Direct taxation would fall most heavily upon the landed interest, and encourage emigration to states less burdened with taxes. The aggregate amount to be collected from the people was the same, whether the debts were assumed or not; and, not only could the collection be made more economically under one uniform system, but the national government, having the sole management of the revenues, could more effectually promote the various branches of domestic industry.

The friends of assumption denied that they considered "a public debt a public blessing;" they admitted it to be an evil. The debt had been already contracted; and they desired now to mitigate the evil. They believed it better policy to give it a form in which it would sub-

serve the purpose of a circulating medium, than to leave it a subject of mere speculation. If adequate funds should be provided for the payment of the debt, its effect upon the public credit would not be unfavorable. Nor was any evil to be apprehended from its flowing into the large cities. It would be a moneyed capital held by those who wish to place money at interest. Funding the debt would give the stock a permanent character, and enable its owners to sell it at its nominal value, instead of its present low rate. No injury could result from its being purchased by foreigners. Their purchasing our funds would bring specie into the United States; and the sooner the debt was brought to its proper standard, the sooner these benefits would be realized.

The question on the resolution to assume the state debts, was carried, 31 to 26. A few days after this decision, the representatives from North Carolina arrived; the resolution was recommitted, and after another warm and protracted debate, it was *negatived*, by a majority of two votes! Before the passage of the funding bill, however, the proposition for assumption was brought forward as an amendment to the bill, but in a modified form. Instead of assuming an uncertain sum, the amendment proposed the assumption of specified sums from each state. But the committee rose before a direct vote could be had upon the motion; and the bill reported to the house with an amendment proposing to fund the outstanding continental money at the rate of seventy five for one, was passed, and sent to the senate for concurrence.

While the funding bill was pending in the senate, the law establishing a temporary and permanent seat of government was passed. It was by the aid of this law, that the friends of assumption finally succeeded in carrying the latter measure. Certain northern members voted to fix the seat of government permanently on the Potomac, in consideration of receiving in return a sufficient number of southern votes in favor of assumption, to carry the measure.

The act, as finally passed, authorized the president to borrow not exceeding \$12,000,000, for the payment of the foreign debt; the money borrowed to be reimbursable within fifteen years. It also authorized a new loan for the whole of the domestic debt; two-thirds of the principal to draw interest at six per cent., to commence the 1st of January, 1791; the other third, to draw the same interest, but not to commence till after the year 1800. Subscriptions to the loan were payable in certificates of the domestic debt at their par value, and in continental bills of credit, at the rate of one hundred for one: the debt to be redeemable by payments not exceeding eight per cent. annually, on account of both principal and interest. Arrears of interest were also to be funded to the full amount but to draw interest at only three per cent., commencing the 1st of Jan-

uary, 1791, and to be redeemable at the pleasure of the government. Non-subscribing creditors were entitled to the same interest as subscribers; but they were left to greater uncertainty, as they could be paid only out of any surplus in the treasury.

Of the debts of the states \$21,500,000 were assumed, in specific sums from each state, regard being had to the amount of indebtedness of each. They were as follows: From Massachusetts and South Carolina, each \$4,000,000; Virginia, \$3,500,000; North Carolina, \$2,400,000; Pennsylvania, \$2,200,000; Connecticut, \$1,600,000; New York, \$1,200,000; New Jersey and Maryland, each \$800,000; New Hampshire and Georgia, each \$300,000; Rhode Island and Delaware, each \$200,000; (the former having joined the union, and her delegation having arrived before the passage of this act.) For these state debts an additional loan was to be opened, but on terms different from that for the continental debt. Four-ninths was to bear an interest of six per cent., commencing on the 1st of January, 1792; two-ninths, the same interest after the year 1800; and the other third three per cent. from January, 1792. No certificates of state debts were to be received on subscriptions, except such as had been issued for services or supplies in the war. A board, consisting of three commissioners, was constituted to settle the accounts between the states and the United States.

The duties imposed by the act of the last session were increased; and the duties on imports and tonnage, (after deducting \$600,000 annually for current expenses,) together with the proceeds of the sales of western lands, were pledged as a permanent fund, for the payment of the public debt.

At this session of congress, the cession, by North Carolina, of her western lands, was received and approved; and the territory south of the Ohio was formed into a government, similar to that previously established north of that river. Its constitution did not, however, embrace the anti-slavery proviso contained in the constitution of the north-western territory.

The establishment of a permanent seat of government for the United States, after the treaty of peace with Great Britain, received the early attention of Congress. In the month of June, 1783, congress then sitting at Philadelphia, was surrounded and insulted by a small body of mutineers of the continental army; and having, on application to the executive authority of Pennsylvania, failed to receive protection, removed to Princeton, in New Jersey, and afterwards, for the sake of greater convenience, adjourned to Annapolis. This circumstance probably suggested to congress the necessity of some place for a permanent residence under its own authority, which was subsequently provided for in the

constitution. [Art. I, sec. 8, clause 17.] In October, 1783, it was resolved, that buildings for the use of congress should be erected on the banks of the Delaware; and a few days later, that buildings for a similar purpose should likewise be erected on the Potomac, with the view of reconciling the conflicting wishes of the northern and southern states, by establishing two seats of government. In December, 1784, it was farther resolved that a district should be purchased on the banks of the Delaware for a federal town, and that contracts should be made for the necessary buildings. But the appropriation of the money for these purposes, requiring the assent of nine states, was prevented by the southern interest.

The subject came up before the new congress, near the close of the first session. The eastern states wished, at least for the present, to retain the seat of government at New York. Pennsylvania endeavored to bring it back to Philadelphia or its vicinity. The southern states desired its establishment on the Potomac. A majority of both houses not having agreed upon any place, the subject was postponed till the next session; when, by a combination between the friends of Philadelphia, (aided also, as has been observed, by certain northern members,) and the friends of the Potomac, the seat of government was to be at Philadelphia for ten years, the time estimated to be necessary to erect the public buildings, and after the expiration of that term, to be permanently fixed on the Potomac.

CHAPTER VI.

EXCISE ON DISTILLED SPIRITS.—INCORPORATION OF A NATIONAL BANK.—
APPORTIONMENT BILL.—WAR WITH THE WESTERN INDIANS.

THE third session of the first congress, (this congress having held three sessions,) commenced at Philadelphia, on the 6th of December, 1790. Provision was to be made at this session for the payment of the assumed debts of the states. The secretary of the treasury had, in his original report, suggested for this purpose an increase of duties on imported wines, spirits, tea and coffee, and a duty on home distilled spirits. The assumption had not been adopted until near the close of the session, and the strong objections to the proposed revenue measure which had

been expressed, gave indications of a long discussion, upon which members were not then disposed to enter : and as the interest to be provided for was not to commence until the year 1792, the subject was deferred to the next session, and the secretary was ordered to report such farther provision as he should think necessary for the support of the public credit.

Party lines began to be more distinctly marked. The anti-federalists, having in a great measure relaxed their hostility to the constitution, now arrayed themselves against the financial measures of the government. No general opposition had been made by that party to the funding of the continental debt ; but the assumption of the state debts encountered a bitter hostility from the beginning ; and, in connection with certain other measures, was made the ground of general and open opposition of the anti-federalists to the administration. Resolutions denouncing the scheme were passed by the legislatures of Virginia, Pennsylvania, Maryland, and North Carolina. The peculiar friends of the state governments regarded with jealousy any measure of internal taxation by the general government ; and their aversion to excises needed little stimulus like that administered by their state legislatures, to raise it to indignation. To this cause, in part, has been ascribed the forcible resistance, in western Pennsylvania, to the execution of the law, of which we shall soon have occasion to speak. The more western portion of the population being to a less extent the consumers of foreign goods, and consequently less affected by imposts, the greatest opposition to the duty on domestic distilled spirits came from that quarter.

A bill conforming to the report of the secretary was introduced, and, after a strong and vehement opposition, chiefly from southern and western members, was passed. The principal objections urged against the bill, were, that sufficient evidence had not been given of the insufficiency of the taxes already imposed, to meet the public demand ; that the tax was unequal, as it would throw the greatest burden upon those parts of the country which afforded no substitute for ardent spirits ; and that a less exceptionable source of revenue might be found. A general increase of duty on imports ; a duty on molasses, a direct tax, a tax on salaries, pensions and lawyers ; a duty on newspapers, and stamp duties, were severally mentioned by different members, as preferable to an excise on spirits.

In favor of the bill it was said, that estimates founded on official statements of the receipts into the treasury since the revenue bill went into operation, and other reliable data, showed the insufficiency of the existing sources of revenue. Imposts on foreign goods could not be safely carried farther. Mercantile capital was too limited, and the increased

duties might induce smuggling, and diminish the revenue instead of increasing it. Experience had proved, that a tax on consumption was less burdensome than a tax on property; that, by indirect and insensible means, more could be drawn from the people than by open and direct taxation. The proposed tax was not unequal, and liable to the objections against excises generally, the burden of which fell upon the poor who buy in small quantities, whilst the rich by storing their cellars, escaped the duty. This bill required the duty to be paid by the importer of foreign spirits, and by the manufacturer of domestic spirits, and no article was a fitter subject of taxation. The bill passed the house by a vote of 35 to 21, and went to the senate, where it received some slight amendment, which was concurred in by the house.

The establishment of a national bank was the most prominent measure of the session. In reporting farther provisions for establishing the public credit, the secretary expressed the "conviction, that a national bank is an institution of primary importance to the prosperous administration of the finances, and would be of the greatest utility in the operations connected with the support of the public credit."

In the whole course of legislation under the constitution, no other question—that of a protective tariff, perhaps, alone excepted—has been more thoroughly discussed than the one under consideration. Bills for the incorporation of a national bank have been no less than nine or ten times before the national legislature, and several times has the measure been arrested by the executive veto. At every discussion, the whole field of argument has been explored for reasons in favor of and against an institution of this kind; and quite as often has it been to the party politician the theme of fierce declamation, as to the statesman a subject of candid investigation. Not only have the most eminent statesmen differed on the question, but the same individuals have at different times opposed and supported the measure. Not only so; political parties as such, have changed sides on the question, as will be seen in the course of our history.

The slightest notice, in this work, of all the arguments that have been adduced for and against a national bank, is impossible. With a view to preparing the public judgment for a future decision of this question, such notice would be unnecessary, as the subject, probably, will not be again agitated. For, conceding a national bank, as a fiscal agent of the government, to have been convenient and useful, or even necessary, at the time of its establishment, and during the greater portion of the period of its existence; its necessity at the present time, and under existing circumstances, will not be affirmed; and no party will be likely to hazard its fortunes by the revival of a question which has more than

once largely contributed to the defeat of one of the great political parties. Yet, as it has several times constituted one of the main issues which have divided the great parties of this country, it deserves consideration.

The report of the secretary was elaborate, embracing a great variety of argument. In favor of banks generally, it stated, that they had existed among the principal and most enlightened commercial nations, and their utility had been tested by an experience of centuries. They had given aid to trade and industry, and, in certain emergencies, to the government itself. Among the advantages of a bank were mentioned the following: First, the augmentation of the active or productive capital of a country. Secondly, the greater facility which it affords to the government in obtaining pecuniary aids, especially in sudden emergencies. Thirdly, the facilitating of the payment of duties; as was proved by the accommodations afforded by banks to those who resided near them, in the payment of duties. The report alluded to the bank of North America, in the city of Philadelphia, incorporated by the old congress, in 1781, and to the aid it afforded the United States during the remaining period of the war, and since the peace. Its capital, however, was now too small for the wants of the government, and it had become a state institution, under a charter from the state of Pennsylvania. The report also gave the plan of a bank, with such restrictions and safeguards as were deemed requisite.

The bill came to the house from the senate, and received no opposition until after its third reading. An effort was made for its recommitment, and lost. The question being on its final passage, Mr. Madison, one of the leading opponents of the bill, opened the debate in a very able speech. He admitted some of the advantages of banks. They were, (1.) The aid they afforded merchants in extending their mercantile operations with the same capital. (2.) The aids to merchants in paying punctually the customs. (3.) Aids to the government in complying punctually with its engagements when deficiencies or delays happen in the revenue. (4.) Diminishing usury. (5.) Saving the wear of gold and silver kept in the vaults, and represented by notes. (6.) Facilitating occasional remittances from different places where notes happen to circulate.

The principal disadvantages of banks consisted in, (1.) Banishing the precious metals by substituting another medium to perform their office. (2.) Exposing the public and individuals to the evils of a run on the bank, which might happen from various causes, as false rumors, bad management of the institution, an unfavorable balance of trade, &c. He thought the most important advantages of banks could be better obtained from several banks, properly distributed; as aids to commerce could only be afforded near the seat of banks.

The main objection to the bill, however, was founded on its unconstitutionality. Mr. Madison said; a power to grant charters of incorporation had been proposed in the general convention, and rejected. He denied that the power claimed was implied in the "power to pass all laws necessary and proper to carry into effect the foregoing powers." The meaning of this clause must be limited to means necessary to the end, and incident to the nature of the specified powers. The clause merely declares what would have resulted by unavoidable implication as the appropriate, and, as it were, technical means of executing those powers. A bank might be useful and convenient for collecting taxes, borrowing money, paying debts, and providing for the general welfare; but it was not *absolutely necessary*.

Others, however, did not admit the advantages of a bank to the same extent as Mr. Madison. The facility of borrowing from it would involve the union in irretrievable debts. State banks, it was contended, could render the desired aids to better effect than a single bank like that contemplated; and the latter would swallow up the former. They opposed the loose construction of the words "necessary and proper." A "*necessary*" means to produce a given end, was the means without which the end could *not be produced*."

The advocates of the measure relied upon experience and the testimony of the commercial world, to settle the question as to the utility of such an institution. The new capital would invigorate trade and manufactures with new energy. It would furnish a medium for the collection of the revenues; and if government should be pressed by a sudden necessity, it would afford seasonable and effectual aid. It was admitted that congress could exercise those powers only which were granted by the constitution; but incidental as well as express powers belonged to every government. When power is given to effect particular objects, all the known and usual means of effecting them pass as incidental to such power. A bank was a known and usual means of carrying into effect several of the powers granted to the government. Most of the laws enacted under the new constitution, had been enacted by the authority of implied powers. Laws had been made to tax ships, erect light-houses, govern seamen, &c., under the power to regulate commerce. A majority of the laws enacted under the new constitution, had been made by authority of powers incidental to, or implied in, powers expressly delegated.

The discussion continued, with little intermission, from the 1st to the 9th of February, when the bill passed, 39 to 20. All who voted in the negative, except one, were from the states of Maryland, Virginia, North Carolina, South Carolina, and Georgia. All who were present from the

other states, except one from Massachusetts, voted in the affirmative; together with two from Maryland, two from North Carolina, and one from South Carolina.

The president, before signing the bill, required the written opinions of the members of his cabinet as to its constitutionality. The secretaries of the treasury and of war, (Hamilton and Knox,) affirmed the bill to be constitutional; the secretary of state and the attorney-general, (Jefferson and Randolph,) expressed the contrary opinion. After mature deliberation, the president signed the bill.

The capital stock of the bank was limited to \$10,000,000; \$2,000,000 to be subscribed for the benefit of the United States, the residue by individuals; the whole to be divided into 25,000 shares, of \$400 each; and no person, copartnership, or corporation, to subscribe for more than 1000 shares. One-fourth of the sum subscribed, was to be payable in gold and silver, and three-fourths in public debt; one-fourth to be paid on subscribing, and the remainder in three instalments, semi-annually. The corporation was not to own property, including its capital, to a greater amount than \$15,000,000; nor were its debts, exclusive of deposits, to exceed \$10,000,000. It might sell any part of the public debt composing its stock, but not purchase any public debt, nor trade in anything except bills of exchange, and gold and silver bullion, nor take a higher rate of interest than six per cent. It was to be a bank of deposit and discount; and its bills were to be payable in specie, and receivable in all payments to the United States. No loan was to be made to the United States exceeding \$100,000; nor to any particular state exceeding \$50,000; nor to a foreign prince or state to any amount, unless previously authorized by an act of congress. The bank was to be located at Philadelphia, with power in the directors to establish offices of discount and deposit only, wherever they should think fit, within the United States. The charter was to continue twenty years; and no other bank was to be established by congress within that period.

The inconveniences arising from the disordered state of the currency, demanded some measure of relief. The balance of trade having always been against the colonies, coin had flowed towards England. This had induced the issue, in some colonies, of government bills, or treasury notes, which were sometimes made a legal tender in payment of debts. In others, they were loaned on interest, thus furnishing a source of revenue to the government, and serving as a medium of trade. These paper issues were carried to such an extreme, that parliament had found it necessary to restrict them. During the war, all restraint being removed and necessity impelling to the measure, paper money was issued more profusely than ever before; so that both continental and state bills be-

came almost worthless, and ceased to circulate. Such was the depreciation of the former in the hands of the holders, that a debt of two hundred millions of dollars had been reduced by an act of congress to five millions, being at the rate of forty for one. And nearly eighty millions yet outstanding, were, as has been stated, funded at the rate of one hundred for one. [Appendix, Note A.]

Sensible relief had been afforded, near the close of the war, by the bank of North America, as has been observed. This institution was originated by Robert Morris, at that time superintendent of the continental finances, and was designed to aid him in the duties of his office. It was the first institution in this country which issued bills of credit payable in cash. The advantages of this redeemable currency, not only to the government, but to trade in general, led to the establishment of a similar bank at New York, and another at Boston, and subsequently the national bank just described. No others were at that time in existence in the United States. The constitutional power of the old congress to charter a bank having been questioned, a new charter was obtained from the state of Pennsylvania; after which its connection with the national government ceased. Hence, to furnish the government with an institution then deemed necessary as a fiscal agent, and at the same time to increase the amount of banking capital to meet the increased demands of trade, the new bank was established.

A law was passed at this session, admitting the new state of Kentucky, formed from Virginia, into the union; the admission to take place the 1st of June following, (1792.) Vermont also was admitted, to come into the union on the termination of the present session of congress.

The second congress met on the 24th of October, 1791. The condition of the country at this time, presented a marked contrast with that in which it had been found by the first congress. The president, in his speech at the opening of the session, thus congratulated congress on the improved situation of the country:

"Your own observation in your respective districts, will have satisfied you of the progressive state of agriculture, manufactures, commerce, and navigation. In tracing its causes, you will have remarked with particular pleasure, the happy effects of that revival of confidence, public as well as private, to which the constitution and laws of the United States so obviously contributed. And you will have observed, with no less interest, new and decisive proofs of the increasing reputation and credit of the nation." The readiness with which the stock of the bank had been taken, he mentioned as "among the striking and pleasing evidences, not only of confidence in the government, but of resources in the community."

Among the subjects to which the president called the attention of congress, was the hostility of the north-western Indians, whose depredations on the frontiers had made it necessary to send an expedition against them, and with whom farther hostilities were anticipated. With some of the tribes provisional treaties had been negotiated; to others, overtures of peace were still continued. He also suggested a modification of the act laying duties on distilled spirits, which had caused, in some places, considerable discontent.

Of the members of the former house, about one-third had been reelected. Although the administration majority had been somewhat reduced, it was yet considerable; and, as before, the opposition members were principally from the five southern-most states. In the senate, a still larger proportional majority were supporters of the administration.

The apportionment of representatives, according to the census of 1790, was made at this session of congress. In order to obtain the largest possible number of representatives, it was determined to adopt the lowest ratio allowed by the constitution. A bill was passed by the house, and sent to the senate, where it was amended by making the apportionment conformable to a ratio of 33,000. The house disagreeing to the amendment, the bill was lost. A second bill, based on a ratio of 30,000, was, after much disagreement, passed by both houses. By this bill, the whole representative population of the United States was divided by the ratio, and the number thus obtained was to be the whole number of representatives, to be apportioned among the several states. But as there would remain in each state a fraction of the population unrepresented; and as these fractional numbers of the several states amounted in the aggregate to a population entitled to several representatives, these representatives were apportioned to those states having the largest fractions.

This bill was negatived by the president as unconstitutional, for the reason that those states to which a representative was given for their fractional numbers, had *more* than one representative for every 30,000 inhabitants. According to the president's construction of the constitution [Art. I, sec. 2, clause 3,] *each state* was restricted to a representative for every 30,000 inhabitants; consequently the fractional number could have no representative; and the aggregate number of representatives composing the house must be less than the number obtained by dividing the whole population of *all the states* by the ratio. The president consulted his cabinet on the question, who were equally divided, as on the question of the bank. In the present case, however, he concurred in the opinions of Jefferson and Randolph.

A third bill was then introduced, fixing the ratio at 33,000, and apportioning the representatives in conformity with the views of the president

and was passed without much opposition. It gave a house of 105 members.

Intelligence of the defeat of the American army under Gen. St. Clair, by the Western Indians, near the Ohio river, which had occurred in November, was received by the president in December, and communicated to congress. In accordance with a report of the secretary of war, a bill, providing for the prosecution of the war, and proposing to raise an additional military force, was introduced into the house of representatives, and passed, though not without a vigorous opposition. It was argued that the war was unjust; the hostility of the Indians having been instigated by the British, who were still permitted to occupy the western posts, and by the citizens of the United States having transcended their proper boundaries. Let these causes be removed, and hostilities would cease. Not the least objection to the war was the additional draft upon the treasury, and the consequent increase of taxes which it would occasion. A prosecution of the war was said to be unnecessary. Peace could be obtained in some other way, and at much less expense. But, conceding its necessity, the force which had been already authorized, would, when raised, be sufficient without the additional regiments proposed by the bill.

On the other side it was alleged, that the war had been undertaken simply to defend our citizens on the frontiers. Since 1783, more than two thousand persons had been massacred or carried into captivity. Treaties of peace had been proposed, but the Indians had refused to treat. Nor could they be pacified by repurchasing their lands. War would again break out, and force must at last be employed to obtain a permanent peace. Averse as the people were to taxes, they would regard money as of little value in comparison with the lives of their fellow-citizens. And it would be more economical, by a competent force, at once to terminate the contest, than to protract hostilities by a weaker army.

Gen. St. Clair having resigned the command of the army, Gen. Wayne was appointed to succeed him. The final defeat of the Indians did not take place until nearly two years after.

The secretary of the treasury having been called on by the house to report the ways and means of meeting the additional demands upon the treasury which would be occasioned by the war, recommended an increase of duties; and a new tariff act, conforming in most of its details to the secretary's report, was passed. By this act, a discrimination was made in favor of certain articles with a view to the encouragement of American industry. The excise act being unpopular in some sections of the union, the duty on domestic spirits was somewhat diminished, and increased on those imported.

Laws were also passed at this session for the encouragement of fishing, by granting bounties to the owners of fishing vessels and to the fishermen; for providing more effectually for the public defense, by establishing a uniform militia system; for authorizing the president, in case of invasion or insurrection, to call forth the militia; for establishing a mint and regulating the coinage; for reorganizing the post-office; for regulating the election of president and vice-president, and for declaring what officer shall act as president in case of vacancy in the offices of president and vice-president.

On the 8th of May, congress adjourned to the first Monday of November.

CHAPTER VII.

OPPOSITION TO WASHINGTON'S ADMINISTRATION.—DIFFERENCES BETWEEN SECRETARIES JEFFERSON AND HAMILTON.—WHISKY INSURRECTION.—FUGITIVE LAW.—CONSTITUTION AMENDED.

THE ground of controversy between the two parties had now become essentially changed. The constitution was rapidly increasing in the popular favor. The minority had withdrawn chiefly their opposition from its original objects, and were now directing it against the administration. Unwilling longer to bear a name which implied hostility to the constitution, they renounced the name of "anti-federalists," and assumed that of "republicans." Of this party, Mr. Jefferson had become the leader. Mr. Hamilton, the author of the leading measures of the administration, was considered the head of the other.

The asperity of the parties had been greatly sharpened by the personal enmity known to subsist between their respective leaders. This enmity has been attributed to several causes. These gentlemen differed widely in their views of government. Mr. Jefferson's regard for popular rights is well known. His jealousy of the encroachments of power was perhaps indulged to an extreme. The correctness of the following portraiture of these two political champions, drawn by Hildreth, will probably be generally admitted.

"Jefferson had returned from France, strengthened and confirmed by his residence and associations there, in those theoretical ideas of liberty and equality to which he had given utterance in the declaration of inde-

pendence. During his residence in Europe, as well as pending the revolutionary struggle, his attention seems to have been almost exclusively directed toward abuses of power. Hence his political philosophy was almost entirely negative—its sum total seeming to be the reduction of the exercise of authority within the narrowest possible limits, even at the risk of depriving government of its ability for good as well as for evil; a theory extremely well suited to place him at the head of those who, for various reasons, wished to restrict, as far as might be, the authority of the new federal government.

“Though himself separated from the mass of the people, by elegance of manners, refined taste, and especially by philosophical opinions on the subject of religion, in political affairs Jefferson was disposed to allow a controlling, indeed absolute authority to the popular judgment. The many he thought to be always more honest and disinterested, and in questions where the public interests were concerned, more wise than the few, who might always be suspected of having private purposes to serve. Hence he was ever ready to allow even his most cherished principles to drop into silence the moment he found them in conflict with the popular current. To sympathize with popular passions, seemed to be his test of patriotism; to sail before the wind as a popular favorite, the great object of his ambition; and it was under the character of a condescending friend of the people that he rose first at the head of a party, and then the chief magistrate of the nation.”

“Much less of a scholar or a speculatist than either Jefferson or Adams, but a sagacious observer of mankind, and possessed of practical talents of the highest order, Hamilton’s theory of government seems to have been almost entirely founded on what had passed under his own observation during the war of the revolution, and subsequently, previous to the adoption of the new constitution. As Washington’s confidential aid-de-camp, and as a member of the continental congress, after the peace, he had become very strongly impressed with the impossibility of providing for the public good, especially in times of war and danger, except by a government vested with ample powers, and possessing means for putting those powers into vigorous exercise. To give due strength to a government, it was necessary, in his opinion, not only to invest it on paper with sufficient legal authority, but to attach the most wealthy and influential part of the community to it by the ties of personal and pecuniary advantage; for, though himself remarkably disinterested, acting under the exalted sense of personal honor and patriotic duty, Hamilton was inclined, like many other men in the world, to ascribe to motives of pecuniary and personal interest a somewhat greater influence than they actually possess. Having but little confidence either in the virtue or the judgment of the

mass of mankind, he thought the administration of affairs most safe in the hands of a select few. Nor in private conversation did he disguise his opinion that, to save her liberties from attack or intestine commotions, America might yet be driven into serious alterations of her constitution, giving to it more of a monarchical and aristocratical cast. He had the sagacity to perceive, what subsequent experience has abundantly confirmed, that the union had rather to dread resistance of the states to federal power, than executive usurpation; but he was certainly mistaken in supposing that a president and senate for life, or good behavior, such as he had suggested in the federal convention, could have given any additional strength to the government. That strength, under all elective systems, must depend on public confidence; and public confidence is best tested and secured by frequent appeals to the popular vote."

Admitting these gentlemen to have possessed an ordinary share of human fallibility, a material cause of their mutual hatred might be found in their political rivalry. Identified with those measures which had contributed so largely to the popularity of the administration, Hamilton was regarded with jealousy by other aspirants. Hence the disposition to disparage these measures, and to asperse their supporters. The funding system, the assumption of the state debts, the excise, and the national bank, were denounced as corrupt attempts to gain friends to their author, and as intended to pave the way toward an aristocracy and a monarchy. And, as is too often the case in warm political controversies, the most patriotic supporters of the administration were accused of having been drawn into the interests of the secretary, by the hope of a participation in the profits of the trade in the public stocks created by his policy. Newspapers enlisted in the contest, and increased the virulence of parties. At the seat of government (Philadelphia) was Fenno's United States Gazette, the special organ of the secretary of the treasury and his friends. The National Gazette was the medium selected by the opposition, or rather had been established for this purpose, and, as was alleged, under the auspices of the secretary of state; its editor, Philip Freneau, a Frenchman, having about the same time been appointed translating clerk in the state department.

The disagreement between the heads of the state and treasury departments had acquired such magnitude, and had so great an influence in widening the division of parties, as to deserve notice in this place.

Gen. Washington, having intimated an intention not to be a candidate for reelection, was urged by numerous friends to consent to serve a second term. Having, after the close of the session of congress, retired to Mt. Vernon, for temporary relief from the cares of public business, Mr. Jefferson addressed him a letter, soliciting him to relinquish his

intention to retire; assigning as a reason the divided state of the public mind in relation to the policy of his administration. The letter mentions several causes of dissatisfaction among the people. The public debt was alleged to be greater than was necessary, a part of it having been "artificially created," in consequence of which "we have been already obliged," he said, "to strain the impost till it produces clamor, and will produce evasion, and war on our citizens to collect it, and even to resort to an excise law, of odious character with the people, partial in its operation, and unproductive, unless enforced by arbitrary and vexatious means."

The people complained also that so much of the public debt had "been made irredeemable, but in small portions, and in long terms." But for this, it might be paid in two-thirds of the time. "This irredeemable quality was given to it for the avowed purpose of inviting its transfer to foreign countries," whither three millions of dollars of coin must be annually transported to pay interest. "They think that the ten or twelve per cent. annual profits paid to the lenders of this paper medium, are taken out of the pockets of the people, who would have had without interest the coin it is banishing; that all the capital employed in paper speculation is barren and useless, and is withdrawn from commerce and agriculture, where it would have produced an addition to the common mass; that it nourishes in our citizens habits of vice and idleness, instead of industry and morality; that it has furnished effectual means of corrupting such a portion of the legislature as turns the balance between the honest voters, whichever way it is directed; that this corrupt squadron deciding the voice of the legislature, have manifested their disposition to get rid of the limitations imposed by the constitution on the general legislature, limitations on the faith of which the states acceded to that instrument; that the ultimate object of all this is to prepare the way for a change from the present republican form of government to that of a monarchy, of which the English constitution is to be the model.

"Of all the mischiefs objected to the system of measures before mentioned, none is so afflicting and fatal to every honest hope, as the corruption of the legislature. As it was the earliest of these measures, it became the instrument for producing the rest, and will be the instrument for producing in future a king, lords, and commons, or whatever else those who direct it may choose.

"The only hope of safety hangs now on the numerous representation which is to come forward the ensuing year. Some of the new members will probably be either in principle or interest with the present majority. But it is expected that the great mass will form an accession to the republican party. * * * But should the majority of the new mem-

bers be still in the same principles with the present, and show that we have nothing to expect but a continuance of the same practices, it is not easy to conjecture what would be the result, nor what means would be resorted to for a correction of the evil. True wisdom would direct that they should be temperate and peaceable. But the division of sentiment and interest happens unfortunately to be so geographical, that no mortal can say that what is most wise and temperate would prevail against what is more easy and obvious.

"I can scarcely contemplate a more incalculable evil than the breaking of the union into two or more parts. Yet when we review the mass that opposed the original coalescence; when we consider that it lay chiefly in the southern quarter; that the legislature have availed themselves of no occasion of allaying it, but, on the contrary, whenever northern or southern prejudices have come in conflict, the latter have been sacrificed and the former soothed; that the owners of the debt are in the southern, and the holders of it in the northern division; that the anti-federal champions are now strengthened in argument by the fulfillment of their predictions; that this has been brought about by the monarchical federalists themselves, who, having been for the new government merely as a stepping-stone to monarchy, have themselves adopted the very constructions of the constitution, of which, when advocating it before the people, they declared it insusceptible; that the republican federalists, who espoused the same government from its intrinsic merits, are disarmed of their weapons—that which they denied as prophecy having become true as history—who can be sure that these things may not proselyte the small number which was wanting to place the majority on the other side? And this is the event at which I tremble, and to prevent which I consider your continuance at the head of affairs as of the last importance."

The opponents of Mr. Jefferson regarded this letter as designed to influence the mind of Washington against the original friends of the constitution, who were now generally the supporters of the administration. Whatever were the motives which dictated it, it failed to effect the object imputed to the writer, as is evident from a subsequent conversation with Washington, as related by Mr. Jefferson himself. He represents Washington as having said, "that, with respect to the existing causes of uneasiness, he thought there were suspicions against a particular party which had been carried a great deal too far. There might be desires, but he did not believe there were designs, to change the form of government into a monarchy. There might be a few who wished it in the higher walks of life, particularly in the great cities, but the main body of the people in the eastern states were as steady for republicanism as in

the southern Pieces lately published, and particularly in Freneau's paper, seemed to have in view the exciting opposition to the government, and this had already taken place in Pennsylvania as to the excise law. These pieces tended to produce a separation of the union, the most dreadful of all calamities: and whatever tended to produce anarchy, tended, of course, to produce a resort to monarchical government. He considered these papers as attacking him directly, for he must be fool indeed to swallow the little sugar-plums here and there thrown out to him. In condemning the administration of the government, they condemned him; for if they thought that measures were pursued contrary to his judgment, they must consider him too careless to attend to, or too stupid to understand them. He had, indeed, signed many acts which he did not approve in all their parts, but he had never put his name to one which he did not think eligible on the whole.

"As to the bank which had been the subject of so much complaint, until there was some infallible criterion of reason, differences of opinion must be tolerated. He did not believe that the discontent extended far from the seat of government. He had seen and spoken with many in Maryland and Virginia during his last journey, and had found the people contented and happy. He defended the assumption of the state debts on the ground that it had not increased the total amount to be paid. All of it was honest debt, and, whether paid by the states individually, or by the union, it was still alike a burden on the people. The excise he defended as one of the best laws that could be passed, nobody being obliged to pay who did not elect to do so."

Mr. Hamilton, who also urged Washington not to decline, wrote to him while on a subsequent visit to Mt. Vernon, as follows: "It is clear, says every one with whom I have conversed, that the affairs of the national government are not yet firmly established; that its enemies, generally speaking, are as inveterate as ever; that their enmity has been sharpened by its success, and by all the resentments which flow from disappointed predictions and mortified vanity; that a general and strenuous effort is making in every state to place the administration of it into the hands of its enemies, as if they were its safest guardians; that the period of the next house of representatives is to prove the crisis of its permanent character; that if you continue in office, nothing materially mischievous is to be apprehended; if you quit, much is to be dreaded; that the same motives which induced you to accept originally, ought to induce you to continue till matters have assumed a more determinate aspect; that, indeed, it would have been better for your own character that you had never consented to come forward, than now to leave the business unfinished, and in danger of being undone that, in the event of storms

arising, there would be an imputation either of a want of foresight, or a want of firmness; and in fine, that on public and personal accounts, on patriotic and prudential considerations, the clear path to be pursued by you will be again to obey the voice of your country, which, it is not doubted, will be as earnest and unanimous as ever."

Mr. Randolph, the attorney-general, who also wrote to the president on the same subject, seems not to have taken a side with either party. He says: "It can not have escaped you, that divisions are formed in our politics as systematic as those which prevail in Great Britain. Such as opposed the constitution from a hatred to the union, can never be conciliated by any overture or atonement. By others it is meditated to push the construction of the federal powers to every tenable extreme. A third class, republican in principle, and thus far, in my judgment, happy in their discernment of our welfare, have, notwithstanding, mingled with their doctrines a fatal error, that the state assemblies are to be resorted to as the engines of correction to the federal administration. The honors belonging to the chief magistracy, are objects of no common solicitude to a few who compose a fourth denomination." After speaking of the tendency of these divisions, he says: "In this threatening posture of affairs, we must gain time, for the purpose of attracting confidence to the government, by an experience of its benefits, and that name alone, whose patronage secured the adoption of the constitution, can check the assaults which it will sustain at the two next sessions of congress."

About this time, a personal newspaper controversy occurred, in which the resentments of the parties were freely uttered. The frequent attacks in Freneau's paper upon the financial measures of the administration, at length drew from Mr. Hamilton a severe newspaper article, signed "An American," in which he represented that paper as having been established under the auspices and for the special use of the secretary of state, and charged him with the impropriety of holding office in the administration, while conducting a warfare against measures which had received the approval of both branches of the legislature and of the executive. Freneau, in reply, denied Mr. Jefferson's having been concerned in the establishment or conduct of the paper, or his having even written for it. Several articles followed on both sides before this newspaper war terminated.

Washington, pained at this quarrel between his secretaries, endeavored, though in vain, to effect a reconciliation. In a letter of the 23d of August, addressed to the secretary of state, he wrote thus: "How unfortunate and how much is it to be regretted, then, that while we are encompassed on all sides with avowed enemies and insidious friends,"

(alluding to alleged British and Spanish intrigues with the Indians,) "internal dissensions should be harrowing and tearing out our vitals. The last, to me, is the most serious, the most alarming, and the most afflicting of the two; and without more charity for the opinions of one another in governmental matters, or some more infallible criterion than has yet fallen to the lot of humanity, by which the truth of speculative opinions, before they have undergone the test of experience, is to be fore-judged, I believe it will be difficult, if not impracticable, to keep the parts of it together; for if, instead of laying our shoulders to the machine after measures are decided on, one pulls this way and another that, before the utility of the thing is fairly tried, it must inevitably be torn asunder; and, in my opinion, the fairest prospect of happiness and prosperity that ever was presented to man, will be lost perhaps for ever.

"My earnest wish, and my fondest hope, therefore, is, that instead of wounding suspicions and irritating charges, there may be liberal allowances, mutual forbearances, and temporizing yielding on all sides. Under the exercise of these, matters will go on smoothly, and, if possible, more prosperously. Without them, every thing must rub; the wheels of government must clog; our enemies will triumph, and, by throwing their weight into the disaffected scale, may accomplish the ruin of the goodly fabric we have been erecting.

"I do not mean to apply this advice or these observations to any particular person or character. I have given them in the same general terms to other officers of the government, because the disagreements which have arisen from difference of opinions, and the attacks which have been made upon almost all the measures of government, and most of its executive officers, have for a long time past filled me with painful sensations, and can not fail, I think, of producing unhappy consequences at home and abroad."

A similar letter to Hamilton, and another to Jefferson were subsequently written. In the last he says: "I will solemnly and frankly declare, that I believe the views of both to be pure and well meant, and that experience only will decide with respect to the salubrity of the measures which are the subjects of this dispute. * * * I have a great, a sincere esteem and regard for you both; and ardently wish that some line could be marked out by which both of you could walk."

To these letters of the president, answers in justification of their conduct were returned by both of the secretaries. The character of these answers will be seen from the following extracts.

"It is my most anxious wish," said Hamilton, "as far as may depend upon me, to smooth the path of your administration, and to render it prosperous and happy. And if any prospect shall open of healing or

terminating the differences which exist, I shall most cheerfully embrace it, though I consider myself as the deeply injured party. The recommendation of such a spirit is worthy of the moderation and wisdom which dictated it; and if your endeavors should prove unsuccessful, I do not hesitate to say that, in my opinion, the period is not remote when the public good will require substitutes for the differing members of your administration. The continuance of a division there must destroy the energy of government, which will be little enough with the strictest union. On my part, there will be a most cheerful acquiescence in such a result. * * * I can not conceal from you, that I have had some instrumentality of late in the retaliations which have fallen upon certain public characters, and that I find myself placed in a situation not to be able to recede for the present.

"I considered myself compelled to this conduct by reasons public as well as personal, of the most cogent nature. I *know* that I have been an object of uniform opposition from Mr. Jefferson from the moment of his coming to New York to enter on his present office. I know from the most authentic sources, that I have been the frequent subject of the most unkind whispers and insinuations from the same quarter. I have long seen a formed party in the legislature, under his auspices, bent upon my subversion. I can not doubt, from the evidence I possess, that the National Gazette was instituted by him for political purposes, and that one leading object of it has been to render me and all the leading measures connected with my department, as odious as possible,

"As long as I saw no danger to the government from the machinations that were going on, I resolved to be a silent sufferer of the injuries that were done me. * * * But when I no longer doubted that there was a formed party deliberately bent upon a subversion of the measures which, in its consequence, would subvert the government; when I saw that the undoing of the funding system in particular was an avowed object of the party, which, whatever may be the original merits of that system, would prostrate the credit and honor of the nation, and bring the government into contempt with that description of men who are in every society the only firm supporters of government, and that all possible pains were taking to produce that effect, by rendering the funding system odious to the body of the people; I considered it as a duty to endeavor to resist the torrent, and as an effectual means to that end, to draw aside the veil from the principal actors. To this strong impulse, to this decided conviction, I have yielded; and I think events will prove that I have judged rightly. Nevertheless, I pledge my honor to you, sir, that if you shall hereafter form a plan to reunite the members of your administration upon some steady principle of coöperation, I will

faithfully concur in executing it during my continuance in office ; and I will not, directly or indirectly, say or do a thing that will endanger a feud."

Jefferson, in his letter, says : " When I embarked in the government, it was with a determination to intermeddle not at all with the legislature, and as little as possible with the co-departments. * * * If it has been supposed that I have ever intrigued among the members of the legislature to defeat the plans of the secretary of the treasury, it is contrary to all truth. That I have utterly, in my private conversations, disapproved of his system, I acknowledge and avow : and this was not merely a speculative difference. His system flowed from principles adverse to liberty, and was calculated to undermine and demolish the republic, by creating an influence in his department over the members of the legislature. I saw this influence actually produced, and its first fruits to be the establishment of the great outlines of his project by the votes of the very persons who, having swallowed his bait, were laying themselves out to profit by his plans ; and that, had these persons withdrawn, as those interested in a question ever should, the vote of the disinterested majority was clearly the reverse of what they made it. These were no longer, then, the votes of the representatives of the people, but of deserters from the rights and interests of the people ; and it was impossible to consider their decision, which had nothing in view but to enrich themselves, as the measures of the fair majority, which ought always to be respected.

" If what was actually done begat uneasiness in those who wished for virtuous government, what was farther proposed was not less threatening to the friends of the constitution. For, in a report on the subject of manufactures, (still to be acted on,) it was expressly assumed, that the general government has a right to exercise all powers which may be for the general welfare ; that is to say, all the legitimate powers of government, since no government has a right to do what is not for the welfare of the governed. There was, indeed, a sham limitation of the universality of this power to cases where money is to be employed. But about what is it that money can not be employed ? Thus the object of these plans, taken together, is to draw all the powers of government into the hands of the general legislature, to establish means of corrupting a sufficient corps in that legislature to divide the honest votes, and preponderate by their own the scale which suited, and to have that corps under the command of the secretary of the treasury, for the purpose of subverting, step by step, the principles of the constitution, which he has so often declared a thing of nothing, which must be changed."

The reason assigned by the secretary of state for his patronizing the

National Gazette, was a desire to present to the public European intelligence taken from the Leyden Gazette, instead of the English papers, the latter being considered as not giving a correct view of foreign affairs, especially of those of France, where the revolution was then in progress. He disclaimed having written or dictated any thing unofficial to be inserted in Freneau's paper. He had simply furnished the editor with the Leyden Gazette, and requested him to translate and publish articles from the same. Any recommendations which he might have given the paper, had no respect to its opposition to the measures of the government, but to the ground it took against the aristocratical and monarchical doctrines of writers in other papers.

We have devoted considerable space to this cabinet controversy, which occurred in an important period of the history of our government, and which, from its influence upon the future politics of the nation, has not yet become devoid of interest. Although the parties of that day have long ago ceased to exist, public sentiment in regard to the early policy of the government is still to some extent divided; and the two original leaders of those parties have yet their admirers. Of their relative merits or demerits, it is hardly safe at this remote period to express an opinion. To both must be conceded a large measure of patriotism, and the honor of having rendered important public services. As is usual in times of political excitement, the characters, private and official, of both, were often unjustly assailed, and their public acts, as well as the motives that prompted them, misjudged. Not only the newspapers, but pamphlets almost without number, many of which are yet extant, were employed in this party war. Abounding with the most fulsome praise on one side, and malicious disparagement on the other, they are unreliable sources of information, and serve little purpose other than to show the character of the warfare which they were instrumental in promoting.

We can not be persuaded to believe the existence of the alleged conspiracy against republican liberty, or of the corruption or subserviency of a majority of both houses of the legislature; yet it is not incredible that a man so extremely jealous of encroachments upon popular rights as Mr. Jefferson, should indulge in unjust suspicions toward a political rival and his supporters. We are equally slow to believe, that the benefits of Mr. Hamilton's financial policy were not in some measure overrated. The general industry and the restoration of commerce, doubtless contributed much to raise the country from the depressed condition to which it had been reduced by the war.

The act imposing a duty on distilled spirits, unacceptable in several parts of the union, was extremely obnoxious to the inhabitants of the western counties of Pennsylvania. Meetings in which some of the most

influential citizens took a leading part, were held at Pittsburg and other places; and resolutions were adopted tending to increase the discontent, and encouraging resistance to the execution of the law. It was this organized opposition to the excise law that had induced congress, before its adjournment, to pass the act authorizing the president to call out the militia to aid in enforcing the laws. Various measures—as declaring infamous all excise collectors—threatening to destroy property and life, personal violence and the like—were resorted to in order to deter persons from assisting to execute the law.

Reluctant to employ military force, the president issued a proclamation, exhorting all persons to desist from any proceedings tending to obstruct the execution of the laws, and requiring the aid of the magistrates to bring the offenders to justice. But the proclamation was ineffectual. Many of the magistrates, instead of aiding to maintain the laws, encouraged resistance to them. This spirit of rebellion found additional encouragement in the sympathies of a powerful political party which had arrayed itself against the administration, and which had labored to make this a special object of public odium. This opposition to the laws continued until the summer of 1794. Other means of securing obedience to the law having failed, and the insurrection having assumed an alarming aspect, a strong military force was raised, consisting of 15,000 men, and the insurrection quelled, almost without bloodshed.

The presidential election which occurred this year, (1792,) resulted in the unanimous reelection of Gen. Washington. Mr. Adams also was reelected vice-president, having received 77 votes, and George Clinton 50, the latter being the candidate of the opposition party. Mr. Adams received all the votes of the five New England states, New Jersey, Delaware, Maryland, Pennsylvania, and South Carolina, except one vote of Pennsylvania, given for Clinton, and one of South Carolina for Burr. Mr. Jefferson received the votes of the Kentucky electors.

Congress assembled on the 5th of November. Among the subjects to which attention was called by the president, were the continued hostility of the Indians, and the increased opposition to the collection of the duty on distilled spirits. In relation to the public debt, he said: "I entertain a strong hope that the state of the national finances is now sufficiently matured to enable you to enter upon a systematic and effectual arrangement for the regular redemption and discharge of the public debt, according to the right which has been reserved to the government. No measure can be more desirable, whether viewed with an eye to its intrinsic importance, or to the general sentiments and wish of the nation."

In answer to the president's speech, the two houses expressed their approval of the measures he had adopted, and of his determination to

compel obedience to the laws; and the house, whose attention particularly he had called to the subject of the public debt, responded favorably to the recommendation. But when a motion was made to enter upon that measure, and to call upon the secretary of the treasury to report a plan for that purpose, it met with a strong opposition. It was objected, that the house had not yet sufficient knowledge of the state of the finances. The proposed reference of the subject to the secretary of the treasury was most vigorously opposed; but after several days' debate it was carried, 32 to 25. A plan was accordingly reported by the secretary, in which, anticipating an increase of expenditures on account of the Indian war, a slight addition to the revenue was proposed, by imposing a tax on pleasure-horses or pleasure-carriages, at the option of congress.

Several causes conspiring to produce delay, no definitive action was taken upon the subject at this session. One of these causes was an inquiry instituted by the house into the official conduct of the secretary of the treasury, who was suspected of corrupt transactions in the management of the finances. On motion of Mr. Giles, of Virginia, the president was called on for information in regard to the borrowing of certain moneys authorized by law, and the manner of their application. This call was promptly answered by the secretary. A second call was then moved for information respecting several other particulars not embraced in the first. In support of the call, Mr. Giles specified sundry unwarrantable acts of the secretary, besides his failing to account for a million and a half of dollars. The motion was agreed to without debate. The report of the secretary in answer to the call was full, extending to every subject of inquiry; and concluded as follows: "Thus have I not only furnished a just and affirmative view of the real situation of the public accounts, but have likewise shown, I trust, in a conspicuous manner, fallacies enough in the statements from which the inference of an unaccounted for balance is drawn, to evince that it is one tissue of error."

The charge of an unaccounted for balance was abandoned, but Mr. Giles and his coadjutors, imagining the secretary's statements to afford sufficient grounds for a vote of censure, drew up a series of resolutions, comprising no less than six distinct charges against the secretary. After a debate of several days, the criminating resolutions were all negatived. The highest number of votes for any one of them was fifteen, little more than half the strength of the party, and for the others, from seven to twelve votes.

An act was passed at this session to carry into effect the provisions of the constitution for the surrender of fugitives from justice and from labor. The act required the executive of a state in which a person

charged with crime was found, on demand of the executive of the state from which he had fled, to deliver him up to be carried back for trial; such demand to be accompanied by an indictment or affidavit charging the crime. Persons claimed as slaves, might be seized by the claimant, or his agent, and taken before a United States judge, or a state magistrate, who, on satisfactory proof that the person seized was a slave, was required to give a warrant for his return. The supreme court of the United States having subsequently decided that congress could not impose duties upon state officers, magistrates were by law forbidden in many of the free states, to aid in carrying the act of congress into effect.

At the session of the supreme court of the United States, in February, it was decided that a state was suable by a citizen of another state. A citizen of South Carolina had brought a suit against the state of Georgia. The process had been duly served upon the governor and the attorney-general of the state; but the state made no defense, protesting that the court had no jurisdiction in the case. The question was argued by the attorney-general of the United States, who appeared for the plaintiff. The jurisdiction of the court was considered as clearly sustained by the constitution, which declares that the judicial power shall extend "to controversies between a state, and the citizen of another state." The states having been made liable, by this decision, to innumerable suits, alarm was taken, and at the next session of congress an amendment to the constitution, [being the 11th article of Amendments,] was proposed, which declares that "the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state;" and the same was afterwards ratified by the states.

With the 3d of March, 1793, closed the constitutional term of the second congress, and the first term of Washington's administration.

CHAPTER VIII.

OPPOSITION TO THE ADMINISTRATION.—RELATIONS WITH FRANCE.—PROCLAMATION OF NEUTRALITY.—GENET, THE FRENCH MINISTER.—POLICY OF GREAT BRITAIN.

THE second term of Washington's administration was scarcely less eventful than the first. The internal policy of the government had been, as we have seen, established against a powerful opposition. Scarcely had

the ceremonies of the second inauguration closed, before it became necessary to lay the foundation of a foreign policy which was destined to encounter an opposition no less vigorous and determined.

The French revolution had commenced almost simultaneously with the organization of the government of the United States under the new constitution. Its progress was watched with interest by the American people, whose sympathies were very naturally, as well as very generally, enlisted in the cause of their old ally, by whose aid their own independence had been achieved. Such, however, was the character of that revolution as to inspire strong doubts of the establishment of a permanent government. A new constitution had been adopted, to which the king had given his assent. The legislature consisted of a single body, called the "national assembly." The crown was to continue hereditary.

Soon after, the king was suspected, though unjustly, as is supposed, of being confederate with the enemies of France. On the 10th of August, 1792, the palace of the Tuilleries was stormed, and the royal government subverted. In the prisons of Paris were confined large numbers of nobles, ecclesiastics, and wealthy citizens, suspected of having favored the aristocratic party. The Jacobin demagogues, bent on their destruction, caused the prisons to be burst open, and all the prisoners to be massacred. The number thus slain in two days, the 2d and 3d of September, was estimated at five thousand. General La Fayette, whose destruction was determined on, fled the country. He was arrested by the Austrians and conveyed to the prison of Olmutz, where he suffered a long and cruel confinement, until released through the interposition of the American government.

The national assembly was dissolved, and a new assembly, called a "convention," was established, which met on the 24th of September, and by which the abolition of monarchy was decreed, and France declared a REPUBLIC. The king was afterwards brought before the bar of the convention for trial, without any previous intimation of the charges against him, and declared guilty of a conspiracy against the liberties of the nation. He was executed on the 21st of January, 1793. In October following, the queen also, after an imprisonment of three months in a dungeon, was tried for alleged crimes which were not substantiated, and publicly executed.

Louis XVI was universally known as an amiable prince. His friendship during our own revolution had been appreciated by the American people; and the president had but recently communicated to congress a letter from the king, announcing his assent to the representative government; and the house had, with but two dissenting voices, congratulated the French people on this auspicious event. In view of these facts in

connection with the subsequent wanton sacrifice of the king—the character of the revolutionists—their imperfect ideas of republican government—it would not have been strange if the people had indulged apprehensions unfavorable to the establishment of a well regulated republican government, nor less strange still, if the horrid butcheries under the blood thirsty Robespierre and his coadjutors, the abjuration of the Christian religion, and the abolition of the sabbath, had strengthened these apprehensions.

The question as to the course to be pursued by the United States toward the new government of France, was to be settled. Of the right or propriety of recognizing it, there could hardly be a doubt. But a combination of several European powers had been formed against France; and in April, 1793, a formal declaration of war was made by France against Great Britain and Holland. A large portion of the American people, regarding the situation of France as similar to that of the United States in their contest with Great Britain, were disposed to reciprocate the favor of our former ally. Although sympathizing strongly with France, the president desired to maintain the neutrality of the United States. But before deciding upon the course to be taken, it was necessary to determine whether it was consistent with our treaties with France. By a stipulation in the treaty of alliance with that country, the United States were expressly bound to guaranty the French possessions in America. The treaty of commerce provided, that free ships should make free goods; that is, instead of the enemy's goods being subject to seizure and confiscation on board neutral vessels, according to the law of nations, such goods were to be free from seizure.

The president was at Mount Vernon when intelligence of the war between France and Great Britain reached him. Having learned that vessels were already preparing to engage in privateering on the commerce of the belligerent powers, he addressed letters to the secretaries of state and of the treasury, requesting them, "to give the subject mature consideration," that, on his return, measures might be adopted without delay, "to prevent our citizens from embroiling us with either of those powers."

On the 18th of April, 1793, the day after his return, he proposed to the members of his cabinet, a series of questions, to which written answers were requested. Among these questions were the following: Shall a proclamation issue for the purpose of preventing interferences of the citizens of the United States in the war between France and Great Britain? Shall it contain a declaration or not? Shall a minister from the republic of France be received? If so, shall it be absolutely, or with qualifications? Are the United States obliged by good faith to

consider the treaties with France as applying to the present situation of the parties? or may they either renounce them, or suspend them until the government of France shall be established? If the treaties are now in operation, is the guaranty in the treaty of alliance applicable to a defensive war only? Ought congress to be assembled with a view to the present posture of European affairs?

The members were unanimous in favor of a proclamation of neutrality, and of receiving a minister. The secretaries of the treasury and of war, however, advised the reception with a qualification, on the ground of doubt, whether the new government of France could be considered as established by the general consent of the nation. The secretary of state and the attorney-general, thought there ought to be no departure from the usual mode. Nor did they think the change in the form of the French government absolved the United States from the obligations assumed by preëxisting treaties.

The secretaries of the treasury and of war, admitted the right of nations to change their form of government at pleasure; but they held that, when a change in the internal condition of a state is such, that the other party to the alliance can not render the promised aid without endangering its own safety, its obligation ceases. Considering the means by which the present ruling party in France had acquired their power, there was no satisfactory evidence that they held it by the general consent of the people, or that the present government would be permanent. The horrid and unprovoked massacres perpetrated by the Jacobin clubs at Paris, and the gross injustice of the leading acts of the revolutionists, had drawn against the republic such an immense armed force, as to render a continuance of the alliance, in consequence of this new state of things, dangerous to the safety of the United States. In their opinion, however, the government, instead of annulling or totally suspending the treaties, should reserve for future consideration the question, whether their operation ought not to be temporarily and provisionally suspended; and if this should be the determination of the government, the expected minister ought to be in conciliatory terms apprised of the same.

These two secretaries held, also, that the clause of guaranty applied only to a *defensive* war, and was not binding in the present war, which was commenced by France. The other two members deemed it unnecessary at that time to decide this question. The question is here suggested, whether the proclamation of neutrality, to which both these gentlemen had assented, was not itself tantamount to a limitation or suspension of the guaranty. None appear to have been in favor of convening congress.

The president, in accordance with the opinions of Jefferson and Ran-

dolph, concluded to receive the French minister without qualifications or explanations.

The proclamation was issued on the 22d of April. It declared the disposition of the government to maintain the existing friendly relations with the belligerent powers of Europe, and enjoined the citizens of the United States to forbear all acts inconsistent with neutrality.

Hitherto no open assaults had been made upon the president himself; but his popularity was no longer sufficient to shield him from the censures of the opponents of his administration. The proclamation was regarded as evincing hostility to France, and partiality for Great Britain. The cabinet had unanimously advised the proclamation; but the different views of the members on the French question in general, were well known, and tended to keep up the opposition to the administration.

The present minister of France, Mr. Ternant, who had been appointed by the king, was recalled, and succeeded by one more zealously disposed to carry out the designs of the new government. The name of the new minister was Edmund C. Genet, usually called Citizen Genet, the title of citizen having been substituted for that of Mr. There is scarcely a more interesting chapter in the history of our government, than that which records the diplomatic career of this minister in the United States. It discloses the designs of the French government to induce the United States "to make common cause" with that country in a war against Great Britain and other European powers; and but for the prudence and firmness of the American executive, and the indiscretion of the French minister himself, this country would probably have been involved in a most perilous war.

Genet arrived at Charleston, S. C., April 8th, 1793, where he was received with great enthusiasm. He immediately commenced enlisting American citizens, and fitting out and commissioning vessels of war to cruise against the enemies of France. The transactions of Genet at Charleston were made the subject of complaint by the British minister to the president. To this cause of complaint was soon added that of the annoyance of British commerce by the privateers fitted out by Genet, and of the capture, by the French frigate, *L'Ambuscade*, of the British ship *Grange*, within the capes of Delaware, on her way from the port of Philadelphia to the ocean; for which the British minister demanded restitution.

The memorials of Mr. Hammond, the British minister, having been laid before the cabinet, it was unanimously decided, that, as no foreign power could exercise authority within the jurisdictional limits of an independent nation, the acts complained of, not being warranted by treaty, were violations of neutral rights. The decision was also unanimous,

that the Grange, having been captured within the waters of the United States, should be restored to her owners. But with respect to the restoration of the vessels captured by the privateers fitted out by Genet, there was a difference of opinion. Jefferson and Randolph held, that if the commissions issued by Genet were invalid, the courts would adjudge the property to the former owners. Remedy ought therefore to be sought by a recourse to *law* and not to the government. And with a disavowal of the act, and the taking of measures to prevent its repetition, Great Britain ought to be satisfied. Hamilton and Knox maintained that the captures were illegal, and in violation of the proclamation of neutrality; and that, by refusing to make restitution, the United States would become a party to the war. The case being one in which the national sovereignty was infringed, it was a proper one for the *government*, and not for the courts to determine. They therefore advised the restoration of the vessels. On this point, the president took time to deliberate. He afterwards adopted the opinions of the two latter gentlemen.

The decision that the commissions issued by Genet were illegal and void, and that the Grange should be restored—points upon which all were agreed—was communicated to the British and French ministers, the day before the arrival of Genet at Philadelphia. Letters were also addressed to the executives of the several states, requiring them to aid in executing the rules established. After a stay of several weeks at Charleston, Genet proceeded to Philadelphia. He was received at different places on the way, with expressions of the warmest attachment. On the 16th of April, he arrived at the seat of government, amidst the shouts of the joyous multitude, embracing a large portion of the inhabitants. The communication sent the day previous to Mr. Ter-
nant, was by him in due time delivered to Genet, whose displeasure was highly excited by the decisions of the administration on the French question.

Genet was the bearer of a public letter addressed by the national convention to the people of the United States. This letter, published at Paris in December, had been republished in this country before his arrival. In it the convention say: "The immense distance which parts us, prevents your taking, in this glorious regeneration of Europe, that concern which your principles and past conduct reserved to you." On the 18th of May, he was formally presented to the president and duly received. On this occasion he assured the president that, "on account of the remote situation of the United States, and other circumstances, France did not expect that they should become a party in the war, but wished to see them preserve their prosperity and happiness in peace." It afterwards appeared, however, that he had brought with him

secret instructions, charging him to endeavor to induce the American government to make common cause with France.

On the 23d of May, Genet communicated a decree of the French convention, by which American vessels were admitted into the ports of France and her East and West India colonies, with the same privileges as those enjoyed by her own. In the letter accompanying this decree, he says: "The French republic, seeing in the Americans but brothers, has opened to them, by the decrees now inclosed, all her ports in the two worlds; and has charged me to propose to your government to establish, in a true family compact, the liberal and fraternal basis on which she wishes to see raised the commercial and political system of the two people, all whose interests are confounded." In forming this new "compact" it was the object of the French executive council, as appears from their instructions, to *enlarge* the treaty of 1778. They suggest "a national agreement, to befriend the empire of liberty, to guaranty the sovereignty of the people, and to punish those powers who still keep up an exclusive colonial and commercial system, by declaring that their vessels shall not be received in the ports of the contracting parties." Genet was instructed to require of the United States, in the "enlarged" treaty, a new guaranty of the French West India Islands, as a condition of their free commerce with those islands. His instructions say: "The citizen Genet will find the less difficulty in making this proposition relished in the United States, as the trade which will be the reward of it will indemnify them ultimately for the sacrifices they may make at the outset; and the Americans can not be ignorant of the great disproportion between their resources and those of the French republic; and that for a long period, the guaranty asked of them will be little else than nominal for them, while that on our part will be real; and we shall immediately put ourselves in a state to fulfill it, in sending to the American ports a sufficient force to put them beyond insult, and to facilitate their communication with the islands and with France."

From these instructions, and the subsequent conduct of Genet, it became evident to the American government, that, in the proposed modification of the commercial and political relations of the two countries, the chief object was to effect such a *political* connection with France, as would have identified the United States with her in all her fortunes.

France being engaged in war, and in want of funds, Genet was instructed to request the immediate payment of the remainder of the French debt, not yet due. As an inducement, he proposed to expend the whole sum (between two and three millions of dollars,) in the purchase of provisions and other productions of the United States. The government, unwilling to resort to new loans for this purpose, especially

as money could not then be obtained on favorable terms, declined the proposal. At this refusal Genet took offense, and, in his reply, said it tended "to accomplish the infernal system of the king of England, and of the other kings, his accomplices, to destroy, by famine, the French republicans and liberty."

Upon every decision of the government unfavorable to the designs of Genet, he made direct issue. He claimed the right to arm vessels in the ports of the United States, under that article of the treaty by which the parties agreed not to permit the enemies of either to fit out privateers in their ports. The express *prohibition* of this privilege to *enemies*, he considered as implying a *permission* to the *parties themselves*. The president maintained, that the silence of the treaty respecting the rights of the contracting parties did not justify the inference of the right claimed. This point, on which the treaty was silent, must be determined by circumstances. Genet also insisted on the right, by the treaty, to arm vessels and to try and sell prizes in American ports, under the article allowing each party to bring prizes into the ports of the other. The president considered this provision as merely a permission to the parties to enter and leave the ports of each other with prizes, but not of equipping vessels. Genet also held the singular doctrine, that the American government was not responsible for the acts of its citizens who had enlisted on board of the French privateers, as they had for the time renounced the protection of their own country.

Notwithstanding the determination of the government to enforce the rules of neutrality, Genet persisted in his unlawful acts. In his warfare against the government, he was encouraged by the aid he received from our own citizens. A powerful political party and its presses were allied with him in this warfare. The two opposition papers at Philadelphia, Freneau's Gazette, and Bache's Advertiser, both pronounced the proclamation, not only a violation of the treaties with France, but a usurpation of the rights of congress. Genet was expressly told that the people would sustain him. The lead of these papers was soon followed by kindred presses in other parts of the union.

The paper first above mentioned exhorted thus: "The minister of France, I hope, will act with firmness and with spirit. The people are his friends, or the friends of France, and he will have nothing to apprehend; for as yet the people are sovereign of the United States. * * * If one of the leading features of our government is pusillanimity, when the British lion shows his teeth, let France and her minister act as becomes the dignity and justice of her cause, and the honor and faith of nations." The other paper said: "It is no longer possible to doubt, that the intention of the executive of the United States is, to look upon

the treaty of amity and commerce between France and America, as a nullity ; and that they are prepared to join the league of kings against France."

An impulse was also sought to be given to the cause of France by the formation of " democratic societies," on the plan of the Jacobin clubs of Paris. The first of these was formed in Philadelphia, soon after Genet's arrival. The declared object of these societies was the protection of American liberty against a " European confederacy," and " the pride of wealth and arrogance of power" at home. These societies brought their influence to bear against the president, and in favor of the French minister. After the fall of Robespierre in France, these societies, as did their prototypes in Paris, soon died away.

Thus supported, it is not so strange that Genet persisted in setting the government at defiance. It was said that not less than fifty British vessels—some of them within the jurisdiction of the United States—were captured by vessels fitted out and acting under his authority. And in spite of express prohibitions, French consuls continued to exercise admiralty powers, in holding prize courts, and in the condemnation and sale of prizes.

The language of the French minister in his correspondence was highly disrespectful and offensive. Obstructions to the arming of French vessels, he pronounced " an attempt on the rights of man," and insinuated the charge against the American government of " a cowardly abandonment of their friends," and of acting against " the intention of the people of America," whose " fraternal voice resounded from every quarter around him."

Another subject of complaint by the French minister was, that French property had been taken by British cruisers from American vessels, without any effort on the part of our government to reclaim it. This he declared to be contrary to the principles of neutrality and the law of nations, that " friendly vessels make friendly goods." In permitting this seizure of French goods, he charged our government, indirectly, with tolerating " an audacious piracy," and says, " the French, too confident, are punished for having believed that the (American) nation had a flag ; that they had some respect for their laws, some conviction of their strength ; and entertained some sentiment of dignity. But," says he, " if our fellow-citizens have been deceived, and if you are not in a condition to maintain the sovereignty of your people, speak ; we have guarantied it when slaves, we shall be able to render it formidable, having become freemen." And he wished to know what measures had been taken to restore the property plundered from his fellow-citizens, under the American flag.

The secretary of state, in answer, reminds the minister of a very important mistake. He is told that, by the law of nations, "the goods of a friend, found in the vessel of an enemy, are free; and that the goods of an enemy, found in the vessel of a friend, are lawful prize." It was true, that, by a special provision in our treaty with France, the character of the vessel should be imparted to the cargo; that is, free ships should make free goods. But no such regulation existed between the United States and Great Britain: therefore, in this case, the law of nations must govern.

Genet's disrespect of the public authorities was strikingly evinced in the case of the *Little Sarah*. This vessel had been taken by a French frigate, and brought into the port of Philadelphia, where she was equipped as a privateer, and called *Little Democrat*. When the vessel was about to sail, Mr. Hamilton, to whom the fact had become known, communicated the same to the other secretaries, the president having been suddenly called to Mount Vernon. The interposition of the governor of Pennsylvania was requested, who sent his secretary of state, Mr. Dallas, to persuade Genet to detain the vessel, and save him the necessity of employing force. On receiving the message, Genet became enraged, and indulged in intemperate language toward those officers of the government whom he considered inimical to the cause of France, and by whom the president was misled. He said the president had not the power to issue a proclamation of neutrality; it belonged to congress; and he intimated his intention to appeal from the president to the people. He would remain until the meeting of congress; and if the representatives of the people should sustain the president, he would depart, and leave the dispute to be settled by the two nations.

Genet having refused to give any pledge to detain the vessel, Gov. Mifflin ordered out one hundred and twenty men to take possession of her. Mr. Jefferson, desirous to prevent the employment of military force, called on Genet to induce him to give his word that the privateer should remain till the return of the president. But he refused, saying the crew would resist by force any attempt to seize the vessel; declaring at the same time that she was not ready to sail. It was intended merely to move a little down the river that day; and the declaration that she was not yet ready to sail, was repeated in such a manner as to induce the belief that she would not depart. Mr. Jefferson having expressed this belief to the governor, the militia were dismissed. Messrs. Hamilton and Knox then proposed to erect a battery on Mud Island to prevent her passage down the river. Mr. Jefferson dissenting, the measure was not adopted; and before the arrival of the president, the vessel passed down to Chester, whence she might at any time sail without fear of having her progress arrested by the government.

The president reached Philadelphia on the 11th of July, and requested a cabinet meeting at his house the next morning. On reading the papers of the secretary of state relating to the Little Democrat, and the secretary not being present, a messenger was dispatched for him; but he had retired, indisposed, to his country seat. The president immediately addressed a letter to him, which contained the following: "What is to be done in the case of the Little Sarah now at Chester? Is the minister of the French republic to set the acts of this government at defiance with impunity, and then threaten the executive with an appeal to the people? What must the world think of such conduct, and of the government of the United States in submitting to it? These are serious questions—circumstances press for decision; and as you have had time to consider them, (upon me they come unexpectedly,) I wish to know your opinion upon them even before to-morrow; for the vessel may then be gone." The secretary answered, that immediate coercive measures had been suspended, on the assurances of Genet that the vessel would await the president's decision.

It was agreed in the cabinet council, to refer to the judges of the supreme court, the case of the Little Democrat, together with the subjects of difference between the executive and the French minister in the construction of treaties; and to retain in port all privateers equipped by France and England within the United States. Genet was informed of this determination; but before any decision could be had, the Little Democrat sailed, and other vessels soon followed.

The conduct of the French minister having at length become intolerable, it was unanimously agreed in cabinet council, that a statement of his acts, and a copy of his correspondence, with a letter requesting his recall, should be sent to Gouverneur Morris, to be laid before the French executive council. Genet, to whom a copy of the statement was communicated, was highly exasperated by this proceeding. His invectives were directed not only against the president and those members of the cabinet whom he considered "partisans of monarchy;" he did not in this case spare the secretary of state, whom he had regarded as a friend, and who had "initiated him into mysteries which had inflamed his hatred against all those who aspired to absolute power." He disapproved the use of "an official language, and a language confidential."

Genet, as well as the French consuls, persisted in the exercise of his unauthorized powers. His crowning acts of sovereignty within the United States, were the setting on foot of two military expeditions against the Spanish dominions; one from South Carolina and Georgia for the invasion of the Floridas; the other from Kentucky against New Orleans and Louisiana. He had issued commissions for the enlistment

of men, and considerable progress had been made in raising troops, when the movement, though conducted secretly, became known, and measures were taken by the government of South Carolina for its suppression. The other project found great favor with the western inhabitants, who complained of the exclusion, by Spain, of the people of the United States, from a free navigation of the Mississippi; and it was not without some difficulty that the federal authorities succeeded in arresting the enterprise.

But we may not extend this sketch of the proceedings of the French minister. Suffice it to say, that, in consequence of his continued insolence, and his efforts to array the people and their representatives against the executive, the president came to the determination to refuse all farther intercourse with him; and was about to present the subject to congress, when his recall was officially communicated by Mr. Morris. Fauchet, the new minister, arrived soon after, (February, 1794,) and Mr. Morris, not sufficiently zealous for the French cause, was recalled at the request of the executive government of France; and Mr. Monroe, an ardent friend of France, was appointed to succeed him.

There was, perhaps, no time when there was not a majority of the people in favor of neutrality and the proclamation. The reprehensible conduct of the French minister, and the horrid excesses committed by the revolutionists, doubtless weakened the cause of France in this country. There was, however, a powerful party opposed to the proclamation, and in favor of joining France. This party derived not a little strength from the divisions known to exist in the cabinet. Mr. Jefferson entertained a strong partiality for France, and considered the guaranty in full force. Although he had assented to the proclamation, he regarded the question of neutrality as merely reserved to the meeting of congress.

This question was publicly discussed by Hamilton and Madison. These two distinguished statesmen, who had been associated in advocating the adoption of the constitution, in those celebrated numbers of the *Federalist*, now took opposite sides in the practical construction of that instrument with reference to an important question. Hamilton appeared in seven numbers, under the signature of *Pacificus*, in which the authority of the executive to issue the proclamation, and its consistency with our treaties with France, were maintained with great ability. These numbers were replied to by Madison at the request, it is said, of Jefferson. The reply was in five numbers, signed *Helvidius*, in which the positions of *Pacificus* were combated with great ingenuity and force.

The reaction in favor of the government produced by the causes above mentioned, were more than counterbalanced by the operation of certain measures of the British government annoying to neutral trade. The

transfer of a large portion of the laboring population of France from their usual avocations to the military service, added to other causes, had produced a scarcity of provisions. Induced by this state of things, as well as by other motives, she had, as has been observed, opened her ports to neutral commerce.

In perfect contrast with this measure, was the policy of Great Britain. In the hope of reducing her enemy by famine, it was determined to cut off external supplies. Instructions were accordingly issued to the British cruisers to stop all vessels having on board breadstuffs, and bound to any port of France, and to bring them into a convenient port. If they were proved to be neutral property, the cargoes were to be purchased and the ships released; or, both ships and cargoes were to be released on the master's giving bond that they would proceed to dispose of the cargo in the ports of countries at peace with Great Britain. These instructions, issued the 8th of June, 1793, did not reach the United States until September. Great Britain, in justification of this measure, alleged that, by the law of nations, as laid down by the most modern writers, all provisions were deemed contraband and liable to confiscation, when the depriving of an enemy of these supplies was one of the means intended to be employed for reducing him to reasonable terms of peace. But the British orders, it was said, did not go even to the extent allowable, neither prohibiting all kinds of provisions, nor requiring forfeiture. The American government, on the other hand, maintained, that both "reason and usage had established, that when two nations went to war, those who chose to live in peace, retain their natural rights to pursue their agriculture, manufactures, and other ordinary vocations; to carry the produce of their industry, for exchange, to all nations, belligerents or neutrals as usual; to go and come freely, without injury or molestation."

Great Britain also urged that the neutral character of the trade was changed by the fact, that the contracts for the greater part of the cargoes had been made by the French *government*. It was therefore a national, not an individual transaction. It was farther urged in justification, that the measure was sanctioned by the example of France herself. A decree of her national convention, issued in May, and remaining in full force, authorized the capture and condemnation of an enemy's property in neutral vessels, (not excepting those of the United States,) contrary to a special stipulation in the treaty between the United States and France, that "free ships should make free goods."

The enforcement of these orders, in which the allied powers were united, greatly embarrassed American commerce. This measure, superadded to the supposed encouragement of Indian hostilities by the British in Canada; the continued occupation of the western military posts; the

alleged agency of the British government in the depredations upon our commerce, and the enslavement of our seamen by Algerine cruisers; and the impressment of American seamen into the British service; awakened resentments in the American people, towards Great Britain, scarcely less intense than those which impelled them to arms to secure their independence. Add to all this the menacing aspect of affairs with Spain, the Florida boundary question remaining unsettled; the southern states threatened with war from the Creeks and Cherokees, supposed to have been instigated by the Spanish government; the Mississippi closed against the Americans, a cause of general discontent among the western inhabitants; and a strong suspicion of an alliance between Spain and Great Britain against the United States;—and it was easy to imagine the difficulty of maintaining the position of neutrality assumed by the administration.

CHAPTER IX.

THE THIRD CONGRESS.—PRESIDENT'S RECOMMENDATIONS.—JEFFERSON'S COMMERCIAL REPORT; HIS RESIGNATION.—MADISON'S RESOLUTIONS.—PROSPECT OF WAR WITH GREAT BRITAIN.—JAY'S MISSION TO ENGLAND.

IN the state of affairs just described, the new congress convened on the 2d of December, 1793; and its deliberations were awaited with deep interest.

At this session, a resolution was passed by the senate, declaring that the business of that body, hitherto transacted with closed doors, should be done publicly, after the termination of the present session.

In the house, Frederick A. Muhlenburg, of Pennsylvania, was elected speaker over Theodore Sedgwick, of Massachusetts, by a majority of ten votes, indicating a predominance of the opposition party in that body.

The president, in his speech, alluding to the measures adopted as a rule of conduct toward belligerent nations, ascribed them to a desire to prevent the interruption of our intercourse with them, and to manifest a disposition for peace. He said: "In this posture of affairs, both new and delicate, I resolved to adopt general rules which should conform to the treaties, and assert the privileges of the United States. These were reduced to a system, which shall be communicated to you." He suggested to congress the expediency of providing remedies in cases "where individuals shall, within the United States, array themselves in hostility against any of the powers at war, or enter upon military expeditions or

enterprises, or usurp and exercise judicial authority, within the United States;" and then said:

"I can not recommend to your notice measures for the fulfillment of our duties to the rest of the world, without again pressing upon you the necessity of placing ourselves in a condition of complete defense, and of exacting from them the fulfillment of their duties toward us. * * * There is a rank due to the United States among nations which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace—one of the most powerful instruments of our prosperity—it must be known that we are, at all times, ready for war." He also suggested provisions for "the regular redemption and discharge of the public debt," and the "productiveness of the public revenues."

In this message was recommended a just and humane policy towards the Indian nations, designed "to conciliate their attachment" and "to render tranquillity with them permanent, by creating ties of interest"—a policy strictly pursued during several successive administrations.

In a message communicated a day or two after, the president referred to the orders and decrees of Great Britain and France, so injurious to our commerce, and informed congress of the acts and proceedings of the French minister, "the tendency of which," he said, "had been to involve us in war abroad, and discord and anarchy at home."

The house of representatives, in their answer, which was unanimously adopted, said: "The maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We therefore witness, with approbation and pleasure, the vigilance with which you have guarded an interruption of that blessing by your proclamation, admonishing our fellow-citizens of the consequences of illicit and hostile acts toward the belligerent parties; and promoting, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation." The senate responded in similar terms of approbation.

On the 16th of December, Mr. Jefferson made a report to the house on the commerce of the United States, in pursuance of a resolution of that body, passed in February, 1791, instructing him "to report to congress the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations, and the measures which he should think proper to be adopted for the improvement of the commerce and navigation of the same." This report is by some considered one of the ablest official productions of Mr. Jefferson.

From this report it appeared, that the exports of the United States in

domestic produce and manufactures, amounted to \$19,587,055, the imports to \$19,823,000. Of the exports, nearly one-half were carried to Great Britain and her dominions; of the imports, about four-fifths came from the same countries. American shipping was 277,519 tons, of which not quite one-sixth was employed in the trade with those countries. In all the nations of Europe, most of our products bore heavy duties, and some articles were prohibited. In Great Britain, our trade was on the whole on as good footing as that of other countries: some articles were more favored than similar articles from other countries.

Our navigation was seriously affected by the regulations of Great Britain. Her navigation acts of 1660 and 1663, which prohibited to the colonies the privilege allowed to other countries, of bringing their own productions into Great Britain, were unrepealed. Since the war, the king had been authorized to extend this privilege to the United States, and had done so from year to year by proclamation; but a more secure enjoyment of the right was desirable. The report stated also, that a large proportion of the commodities exported to Great Britain, were required to be carried to her ports, to be thence reexported; thus subjecting them to additional charges of double voyage.

As a method of relief to our commerce, the secretary proposed, first, as being preferable, the removal of these restrictions by friendly arrangements; or, secondly, by countervailing acts. If a nation persists in a "system of prohibitions, duties, and regulations, it behooves the United States to protect their citizens, their commerce, and navigation, by counter prohibitions, duties, and regulations also." Our navigation was said to be valuable as a branch of industry, but more so as a resource of defense.

It was stated, that France had proposed entering into a new treaty for improving the commercial relations of the two countries; but her internal disturbances had prevented the prosecution of the negotiation to effect. Proposals of friendly arrangements with Great Britain had been made on our part; "but being already on as good a footing in law, and a better in fact, than the most favored nations, she has not as yet discovered any disposition to have it meddled with."

The secretary stated, that, since the report was prepared in time to be laid before the preceding congress, France had relaxed some of the restraints mentioned in the report; and Spain had made free ports of New Orleans, Pensacola, and St. Augustine, to the vessels of friendly nations having treaties of commerce with her. She had excluded our rice from her dominions. On account of the war she had given us free access to her West India islands; but our vessels were liable to serious vexations and depredations.

In a subsequent report, (December 30,) the secretary communicated the copy of a decree of the French national convention, admitting provisions and certain other articles into the French West India islands, in American vessels, free of duty; also, a copy of the Spanish decree alluded to in the former report.

This, the last official act of the secretary, was followed, the next day, by his resignation. He had in the summer intimated an intention to resign in September; but he had, on solicitation, deferred the execution of his purpose till the close of the year. Mr. Randolph was appointed as his successor; and the office of attorney-general, vacated by the appointment, was filled by William Bradford, of Pennsylvania.

On the 4th of January, 1794, Mr. Madison introduced his noted resolutions, designed to carry out the objects of Mr. Jefferson's commercial report. The first of these resolutions declared it expedient to increase the duties on the tonnage of vessels of nations which had no commercial treaties with the United States, and on their manufactures of leather, metals, wool, cotton, hemp, flax, and silk; and to reduce the tonnage duties on vessels of nations having such treaties. They also proposed an increase of duty on importations from the West Indies in foreign vessels from ports from which American were excluded.

On the 13th of January, Mr. Smith, of South Carolina, opened the debate in opposition to these resolutions. He proposed to discuss the subject as a purely commercial one, without reference to our political relations with foreign countries. He produced a table of statistics, showing that our commerce was on the whole as much favored in Great Britain as in France. These statistics did not extend to a period later than the fiscal year ending September 30, 1792. The commercial regulations of France during the period of the revolution, had been too fluctuating, too much influenced by momentary impulse, to be considered as part of a system. So far as they proposed favors to this country, they manifested an object of the moment, which could not be mistaken. The privileges in the West India trade offered by Genet, he considered the price of becoming a party in the war.

Previous to the demand in France created by the present war, the exports of flour to Great Britain and her colonies, were to those of France and her colonies, as twenty to one. He extended his statements to all the principal articles of exportation to those two countries. The average value of our exports, annually for three years from October 1, 1789, was, to Great Britain, \$8,489,830; to France, \$4,737,131.

The secretary had stated that a great part of the exports to Great Britain were reexported thence at the disadvantage of double charges. This statement Mr. S. believed was founded on statements of lord

Sheffield; having reference to a period prior to the American revolution, when Great Britain had a monopoly of our trade. But admitting that she exported at present one-third of what she received from us, she would still consume more of our products than France.

He considered large importations from Britain no grievance, but a benefit. She could supply us with an assortment of the goods we wanted; and could also give us a credit, which was an advantage to a young country wanting capital. If the encouragement of domestic manufactures had been made the object of the resolutions, some alteration in our commercial regulations with Great Britain might be advantageous. But the object was to turn the tide of trade from Great Britain to France. He admitted the disadvantage of a dependence on one nation for a supply of necessities; but a change should not be brought about by artificial methods. To lessen the importations from Great Britain, we must impose higher duties on her commodities than on those of other countries, which would be a bounty on the manufactures, not of our own country, but of those of foreign nations.

He also noticed the statement of the secretary, that Great Britain alone had discovered no disposition to negotiate, but that "we had no reason to conclude that friendly arrangements would be declined by other nations." From the correspondence of the British minister, Mr. Hammond, the fact appeared otherwise. Mr. Jefferson asked him if he was empowered to treat on the subject of commerce. He replied that he was fully authorized to *enter* into a negotiation for that purpose, though not as yet empowered to *conclude*. Upon farther difficulty and objection on the part of Mr. Jefferson, Mr. Hammond reassures him of his competency to enter on a negotiation, which is based on his commission as minister plenipotentiary and his instructions. Mr. Jefferson requires a communication of his *full powers* for that purpose, and declines the negotiation. The declining, therefore, was not on the part of the British minister. Forms were the obstacle with the secretary of state, whose zeal, at best, was not greater than Mr. Hammond's. Measures had been taken for forming treaties with Spain, and also with Portugal; but no proper treaty with either could be obtained. Why then was Great Britain selected for attack, but that it was "most in unison with our passions to enter into collisions with her?"

Mr. Smith apprehended that the proposed regulations would provoke Great Britain to a war, either of arms, or of commercial regulations. If the former, she could easily persuade her allies to make common cause with her. But if she should prefer the latter, how would the contest stand? A commercial warfare would disturb the course of one-sixth of her trade, and more than one-half of ours. She had also the advantages

of greater capital, and of being both a manufacturing and an agricultural nation. Our navigation was rapidly increasing under the present system; and our other great national interests were in a progressive state. It was therefore deemed impolitic to disturb the present order of things by hazardous experiments.

The remarks of the speaker were extended to a very great length, but we can not pursue them farther.

Mr. Madison replied to Mr. Smith the next day, January 14th. He also was friendly to a free intercourse with all nations. But to this rule, as to all general rules, there might be exceptions; and the rule itself required, what did not exist, that it should be general. The navigation act of Great Britain had secured to her eleven-twelfths of the shipping and seamen employed in her trade. Here was a great gain from a departure of the rule. Another exception to the advantages of a free trade, is found in the case of two countries in such relation to each other, that the one, by duties on the manufactures of the other, might not only invigorate its own, but draw from the other the workmen themselves. To allow trade to regulate itself, is, as our own experience has taught us, to allow one nation to regulate it for another.

Mr. Madison then adverted to the effects of foreign policy upon our trade and navigation, and the attention it excited soon after the peace; and he recapitulated the various unsuccessful attempts to counteract the foreign policy, which resulted in the establishment of a government competent to regulate our commercial interests, and to vindicate our commercial rights. When this subject was discussed in the first congress, it was said we ought to be generous to Great Britain, and give time for negotiating a treaty of commerce. We had waited four years, and no treaty is either in train or in prospect.

Our navigation, he said, was not on an equal footing with England and France. Our ports admitted the produce of all countries in British vessels, while our vessels could carry into the ports of Great Britain only our own commodities; and from her West India ports they were entirely excluded. The effects of the British navigation acts would appear from the following facts:

In our trade with that country, the amount of American tonnage employed, was 43,000 tons; that of Great Britain, 240,000 tons: while in our intercourse with Spain, our tonnage was to hers as five to one; with Portugal as six to one; Netherlands, fifteen to one; Denmark, twelve to one; France, five to one. This proportion had been somewhat changed by particular circumstances. Our tonnage in the same trade with Great Britain, was still only as one to three; with France between four and five to one. Our exports were not only, for the most part,

necessaries of life, which the British manufacturers must have; but they were bulky, and required a large amount of shipping. Therefore, by securing to ourselves the transportation of our own products, the proportion of our shipping and sailors would be greatly increased.

Of manufactures imported, the amount was stated to be \$15,290,000; of which \$13,960,000 came from Great Britain; from France only \$155,000, while the latter actually consumed more of our produce than the former. The balance of trade, at the same time, was greatly in our favor with every other nation, and greatly against us with Great Britain; and an unfavorable balance, to be paid in specie, was by all nations considered an evil—especially was Great Britain careful to prevent it. We consume, said Mr. Madison, her manufactures to double the amount of all she takes from us, and four times the amount of what she actually consumes of our products. We take every thing after it has undergone all the profitable labor that can be bestowed on it; she receives in return, raw materials, the food of her industry. We send necessaries to her; she sends superfluities to us.

As to a discrimination in favor of nations having commercial treaties with us, it had had the sanction of votes in that house; and it was in accordance with the practice of nations. It tended to procure beneficial treaties from nations that desire an equality with other nations in their commerce.

The measure proposed was dictated by prudence. It would relieve us from a state of commercial dependence. We should not be dependent upon a single nation for necessary articles of consumption, or of defense in time of war. He apprehended no injury from the adoption of the proposed measure; it was not for the interest of Great Britain to retaliate. She would be the greater sufferer from a stagnation of trade between the two countries. Her merchants, her manufacturers, her navigation, and her revenue, would be seriously affected by it. Her West Indies would be ruined by it. We too should suffer, but in a less degree. In proportion as a nation manufactures luxuries, must be its disadvantage in contests with its customers. Let the trade between the United States and Great Britain cease, and 300,000 of her manufacturers would be thrown out of employment, and would probably be added to the population of this country, the natural asylum for the distressed of Europe.

It had been said that Great Britain treated the United States as well as she treated other nations. That other nations were willing to submit to unequal regulations, or were unable to vindicate their rights, ought not to satisfy us. Mr. Madison compared the regulations of Great Britain with those of other countries, to show that the former were not

as favorable as the latter ; and he submitted a comparative statement of the commercial policy of Great Britain and France toward us, very different from that of Mr. Smith. He considered the present order of things in France a settled order, and that the trade with that country would maintain its present position. From the statement he presented, it appeared that the total of French consumption of American products exceeded that of British consumption by nearly one million of dollars.

The correspondence between the British minister and Mr. Jefferson relating to negotiation, was reviewed, and the conclusion drawn from it was, that the construction put by Mr. Hammond on his powers was inadmissible, and that the executive had equally consulted dignity and prudence, in silently dropping the subject in the manner they did, until he should produce adequate powers in the accustomed form.

The resolutions were supported by several other gentlemen. It was said that the credit given by British merchants, was but an injury. It encouraged overtrading, and caused a heavy balance of trade against us ; discouraged domestic manufactures ; and promoted luxury. The policy of Great Britain had given her the control of our trade ; and we should endeavor to change its course. By buying the manufactures of France, a portion of her population would be drawn off from agricultural pursuits, and a market opened for our produce. The temporary disadvantage of this policy would be amply repaid by permanent benefits. Great Britain being embarrassed with a dangerous foreign war, it was deemed a favorable time to induce her to consent to some relaxation of the rigorous policy she has hitherto pursued.

Several other speakers also opposed the resolutions. They would not retaliate injuries under the cloak of commercial regulations. If the resolutions were adopted, it should be because they would promote the public interest. Their avowed objects were to favor navigation and manufactures. If navigation was to have additional encouragement, let the duties on all foreign vessels be increased, and let the impositions upon American vessels in the several foreign countries be met by equal impositions, instead of encouraging one foreign nation at the expense of another. Several members opposed to the resolutions, expressed themselves in favor of a navigation act which should meet the restrictions imposed upon our vessels by other nations, with corresponding restrictions upon theirs.

Nor was the plan likely to promote domestic manufactures. This object was to be effected by laying duties on the particular articles, the manufacture of which was to be encouraged. But the primary motive of the resolutions was not the increase of our agriculture, manufactures, or navigation, but to humble Great Britain and build up France.

The foregoing sketch of this debate, though imperfect, presents the principal arguments on both sides of the question; some of which have been more than once reproduced in the discussions of the same or kindred subjects since that period.

On the 3d of February, the question was taken upon the first resolution, and carried by a majority of five. When the second resolution, which related to the duties, came up for consideration, Mr. Fitzsimmons moved an amendment designed to extend its operation to all nations. This motion gave way to one from Mr. Nicholas, restricting its effects to Great Britain. The subject was then postponed until the first Monday of March.

On the 5th of February, the house took up a report made in pursuance of a resolution previously adopted, declaring "that a naval force adequate to the protection of the commerce of the United States against the Algerine corsairs, ought to be provided." The bill provided for the building of six frigates; four of forty-four, and two of thirty-six guns, each. The debate on this subject affords another of the many illustrations of the common propensity to view public measures through a party medium.

The proposed force was said to be insufficient to answer the intended purpose, and could not be brought into immediate use. It would be cheaper and more eligible to purchase the friendship of the Algerines, as other nations had done. Or, if this was impracticable, we might purchase the aid of foreign powers in protecting our commerce. But the plan was most objectionable, as being the commencement of a permanent navy; the expense of which would perpetuate the public debt, and load the people with insupportable burdens. We had gone far enough in this system of tyranny—that of governing a nation by debts. The oppressions of the people of England and France, caused in great part by their expensive navy establishments, had led to the overthrow of the monarchy of the one, and was threatening that of the other.

To this it was replied, that the information lately communicated forbade all hope of purchasing peace. To subsidize other nations to protect our commerce, when we were able to protect it ourselves, was derogatory to the national character. Besides, nations at peace with Algiers would be unwilling to relinquish that peace for any sum we would pay them. Nations at war with that power, had sufficient inducements to check the depredations of their enemy without subsidies. With a navy of our own, we could coöperate effectually with any power that might be at war with Algiers, and accomplish what could not be done by a single nation.

Against the expense of the contemplated force, must be offset the

value of ships and cargoes saved, and the money paid in extra insurance and for the ransom of captured seamen. But a far more important object was, to prevent an increase of the number of these unfortunate captives. It was a matter of surprise that alarm should be taken at a proposition to equip a small armament, especially by gentlemen who had just advocated the improvement of our navigation as a measure of defense, at the hazard of a commercial war with Great Britain.

The question on the final passage of the bill was carried by a majority of eleven votes; several members of the opposition having voted in the affirmative. The bill was concurred in by the senate, and approved by the president.

The British order of the 8th of June, 1793, designed to cut off supplies from France, has been noticed. On the 6th of November, additional instructions were issued to the commanders of British ships of war and privateers, directing them "to stop and detain all ships laden with goods, the produce of any colony belonging to France, or carrying provisions or other supplies for the use of such colony, and to bring the same, with their cargoes, to legal adjudication in the courts of British admiralty." The American minister in England had no notice of these instructions until the last of December. Under this new order, American vessels engaged in French West India trade, were, without previous notice, seized, carried into British West India ports, and some of them condemned.

The intelligence of these instructions increased the excitement against Great Britain; and war was considered a probable event. On the 12th of March, Mr. Sedgwick moved a series of resolutions, proposing to raise a military force of 15,000 men, to be brought into actual service only in case war should break out; and to be drilled, in the mean time, not exceeding twenty-four days in a year, for which they were to receive half a dollar per day. One of the resolutions authorized the president to lay an embargo for forty days, if he should deem it necessary. The majority, however, determined to resume the consideration of Mr. Madison's commercial regulations. A debate ensued, no less animated than the first; but the house came to no decision.

• It was now urged against this plan, that it was not adapted to the present emergency. In the event of a war it would be useless. Besides, it was a measure upon which the public sentiment was not sufficiently united. Its tendency was to provoke war, and to prevent that unanimity in which the strength of the country consisted.

In support of the resolutions, it was said, that they could do no harm, even in case of war; as they would not prevent the adoption of any other measures that might be judged necessary. And in the negotiation of

peace, they would serve a valuable purpose as a basis for such negotiation.

The indications of war were now strengthened by the appearance of what was said to be a speech of lord Dorchester at Quebec, on the 10th of February, to the deputation of a general council of the Western Indians, held at the rapids of the Miami. In this speech, a war between the United States and Great Britain was spoken of as probable.

The resolutions of Mr. Sedgwick had been negatived; but the subject was resumed on the 26th of March, and a substitute adopted, laying an embargo for thirty days, on all vessels in the ports of the United States, bound to any foreign place. This measure was intended to save our commerce from farther exposure to depredation, or to prevent a supply of the British forces in the West Indies. A bill was passed for fortifying certain ports and harbors; and a report was adopted, providing an addition to the regular military force, of 25,000 men, and authorizing the requisition of 80,000 militia from the several states, to be ready to march at a moment's warning.

Mr. Smith, of South Carolina, having given notice of a resolution, declaring that "provision ought to be made for the indemnification of all citizens of the United States, whose vessels or cargoes had been seized and confiscated by any of the belligerent powers, contrary to the law of nations," Mr. Dayton moved a resolution for the sequestration of all debts due from American citizens to British subjects, and to compel their payment into the treasury as a fund for the proposed indemnification.

This resolution was debated with great vehemence. The peace measures of the government were severely reprobated, as manifesting a disregard of public sentiment in behalf of France, and as having encouraged Great Britain to new aggressions. The resolution was opposed as injurious to our credit, unjust, and of dangerous tendency.

Before any question was taken on this proposition, information was received from Mr. Pinckney, our minister at London, that the British order of November 6th had been revoked by another of January 8th, instructing British cruisers to capture only those neutral vessels which were bound with the produce of the French islands on a direct voyage to Europe; or whithersoever bound, if such produce belonged to French subjects; thus leaving the direct trade to the French islands free to American vessels conveying the property of our own citizens.

Mr. Pinckney also communicated an explanation by lord Grenville, stating that the objects of the order of November 6th, were to prevent apprehended abuses from the St. Domingo fleets having sailed to the United States, and to favor a contemplated attack upon the French West India islands; for which purposes the order was no longer neces-

sary. It was stated also, that no vessels were to be condemned under that order, if, on trial, they should not be found to have violated other laws. The concealment of the first order from our minister admitting of no justification, and both the orders being an infringement of neutral rights, the explanation was unsatisfactory. Nor did it allay the public excitement. The minority of the house, and all who refused to espouse the French cause, were represented as British partisans. One of the numerous facts illustrative of the state of the French feeling, at this period, is the following: In a report made by the secretary of state, Mr. Randolph, relative to the vexations of American commerce, by officers and cruisers of the belligerent powers, said it was urged that the French privateers had harassed our trade no less than those of the British, and that France had violated her treaty with us. Although he had been long known as a devoted friend of France, his fidelity to the cause of France and liberty was suspected.

Regulations more stringent than those contemplated by Mr. Madison's resolutions, being deemed necessary at the present juncture, Mr. Clark, of New Jersey, on the 7th of April, moved a resolution to prohibit all commercial intercourse with Great Britain, so far as respected the products of Great Britain and Ireland, until her government should make compensation for injuries sustained by citizens of the United States from British armed vessels, and until the western posts should be given up. The favor with which this proposition was received, indicated its passage by the house; and the equal division of parties in the senate rendered its rejection by that body doubtful.

Determined to leave unemployed no means consistent with the national honor to prevent war—an event quite likely to follow the measure proposed—the president concluded to make an effort at negotiation. Accordingly, on the 16th of April, he nominated to the senate John Jay as envoy extraordinary of the United States, to Great Britain. This nomination was opposed, because the mission was deemed impolitic and unnecessary; also because he was a judge of the supreme court, and was withal considered too friendly to Great Britain, having, while secretary of foreign affairs, stated certain infractions of the treaty of peace on the part of the United States. The nomination was confirmed, however, 18 to 8.

The discussion of Clark's resolutions was continued. They were opposed on the ground that they would be an obstacle to negotiation—that they manifested a partiality toward one of the belligerents, incompatible with a state of neutrality. On the other hand it was urged that the measure could not lead to war; and it would facilitate instead of embarrassing negotiation. The condition on which the intercourse was to be restored—the surrender of the western military posts—having been struck out, the resolutions were adopted, 58 to 38. A bill conforming to

the same was passed by the house by the same vote; but was defeated in the senate by the casting vote of the vice-president.

As the success of Mr. Jay's contemplated mission was considered doubtful, and as a state of war was likely to follow the failure of negotiation, it was deemed proper to prepare for such event, by carrying into effect the measure previously reported. The raising of 25,000 more was negatived. The proposed detachment of the 80,000 minute-men, and other necessary preparations for war were authorized. Additional taxes would of course become necessary. But in selecting the objects of taxation there was a difference of opinion. The bill, as passed, imposed additional duties on imports, taxes on pleasure carriages, snuff, refined sugar, on sales at auction, and on licenses for retailing liquors. It received much opposition. A direct tax, (land tax,) had been reported by the committee, and had some strenuous advocates among the opposition members. It was declared to be a less objectionable tax than any other. They were in favor of raising the whole sum by direct taxes and duties on imports. The tax on carriages was pronounced unconstitutional; and its payment was afterward refused in Virginia, until the question was decided by the supreme court of the United States.

At this session, a second inquiry into the official conduct of the secretary of the treasury, was moved by Mr. Giles, the mover in the former case. The motion was agreed to without opposition, Mr. Hamilton himself being known to desire the inquiry. After a laborious investigation by the committee, of which Mr. Giles was the head, no cause of censure was found. The result was deemed the more honorable to the secretary as the inquiry was conducted by his political opponents.

A law was also passed, prohibiting the exercise, within the United States, of the powers assumed by Genet, of enlisting men and arming vessels, setting on foot military expeditions against nations at peace with the United States, and authorizing the president to employ force in executing the laws. Notwithstanding the favorable responses of both houses to that part of the president's speech at the opening of the session, relating to his efforts to maintain neutrality, this bill met with a determined opposition. It originated in the senate, where it was saved only by the casting vote of the vice-president. In the house, as in the senate, motions were made to strike out some of its clauses deemed most essential; and with respect to that which prohibited the condemnation and sale, within the United States, of prizes of the subjects of nations at peace with us, the motion was successful. This law is still in force.

On the 9th of June, the third congress closed its first session, and adjourned to the first Monday of November. The most important events that occurred in the intermediate time, were the defeat of the western Indians by General Wayne, and the suppression of the "whisky insur-

rection," so called, in western Pennsylvania, which have been mentioned in a preceding chapter.

The release of a number of American vessels captured under the British order of November 6th, together with a declaration by lord Grenville in the British parliament, of friendly designs toward the United States, and the disavowal, by that government, of having encouraged Indian hostilities, slightly checked the popular indignation, and encouraged the hope of a peaceable settlement of the disputes between the two countries.

Mr. Jay embarked on his mission on the 13th of May. He was regarded by his political friends as eminently qualified for the trust confided to him. For purity of character, disinterested patriotism, sound judgment, and diplomatic experience, he was probably unsurpassed. But, although hopes were indulged of an amicable adjustment of the difficulties with Great Britain, these hopes were moderated by her well known unwillingness to relinquish any advantage, of which she had recently given fresh evidence by her obstinate refusal to enter into a commercial treaty. The principal objects of the mission were, restitution for spoiliations of American commerce, and the fulfillment of the treaty of peace. These two objects obtained, a treaty of commerce was then to be proposed.

The instructions to Mr. Jay acquit the president of the charge of unfriendliness to France and partiality for Great Britain. As it was deemed not improbable that the British government would offer inducements to the United States to dissolve their alliance with France, Mr. Jay was instructed to say "that the United States would not derogate from their treaties and engagements with France." To the same effect were the instructions to Mr. Monroe, our minister to France, appointed soon after Mr. Jay's departure. Secretary Randolph, in his letter of instructions, says: "The president has been an early and decided friend of the French revolution; and whatever reasons there may have been to suspend an opinion upon some of its important transactions, yet is he immutable in his wishes for its accomplishment. * * * From Messrs. Genet and Fauchet we have uniformly learned that France did not desire us to depart from neutrality; and it would have been unwise to ask us to do otherwise. For our ports are open to her prizes, while they are shut to those of Great Britain; and supplies of grain could not be forwarded to France with so much certainty, were we at war, as they can even now, notwithstanding the British restrictions. We have therefore pursued neutrality with faithfulness. We mean to retain the same line of conduct in future; and to remove all jealousy as to Mr. Jay's mission to London, you may say that he is positively forbidden to weaken the engagements between this country and France."

CHAPTER X.

DECLINE OF DEMOCRATIC SOCIETIES.—FUNDING SYSTEM CONSUMMATED.—
RESIGNATION OF HAMILTON AND KNOX.—THE JAY TREATY.—TREATIES
WITH SPAIN AND ALGIERS.—MONROE RECALLED.

CONGRESS had adjourned to the 3d of November, 1794; but no quorum appeared in the senate until the 18th.

In his address, delivered the next day, the president gave a detailed account of the insurrection in Pennsylvania, and of the measures taken to reduce the insurgents to submission; and he strongly intimated that, in tracing the origin and progress of the insurrection, it would be found to have "been fomented by *combinations of men*, who, careless of consequences, and disregarding the unerring truth, that those who rouse, can not always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations of the whole government." By the "*combinations of men*," were meant the democratic societies formed under the auspices of Genet.

The senate, in answer, responded to the opinion of the president as to the effects of these "self-created societies," whose proceedings tended to disorganize our government, and had "been instrumental in misleading our fellow-citizens into the scene of insurrection." This part of the address, however, was not adopted without strong opposition. The answer of the house made no allusion whatever to this subject, nor to the success of Gen. Wayne, nor to the foreign policy of the executive; all of which were approved by the senate. The interference with the proposed commercial regulations, by the appointment of a minister to England, was presumed to be the cause of the omission to notice the last of the subjects mentioned.

The thrust of the president at the democratic societies produced considerable excitement, and perhaps contributed to accelerate their decline, which, however, was owing chiefly to causes before mentioned. Robespierre was overthrown; and his clubs were unable to maintain the contest for supremacy with the French convention. A vindication of the clubs would have been nothing less than opposition to the government of France; a position which the republicans of the United States did not wish to assume. Hence the societies soon disappeared. It ought perhaps to be here stated, that the president's unfavorable opinion of these societies was not wholly occasioned by their attacks upon his administration. Judge Marshall says "So early as 1786, in a letter to a favorite

nephew, who had engaged with the ardor of youth in a political society. Gen. Washington stated, in decided terms, his objections to such institutions, and the abuses of which they were peculiarly susceptible."

The president again called the attention of the house to the subject of the public debt, and recommended the adoption of a "definitive plan for its redemption." On the 15th of January, Mr. Hamilton reported a plan for this purpose, and forcibly urged its adoption. He said there was "danger to every government from a progressive accumulation of debt. A tendency to it is perhaps the natural disease of all governments; and it is not easy to conceive any thing more likely than this to lead to great convulsive revolutions of empires. * * * There is a general propensity in those who administer the affairs of government, founded in the constitution of man, to shift off the burden from the present to a future day; a propensity which may be expected to be strong in proportion as the form of the state is popular." At whom the following remarks were aimed, the house could not fail to understand. "To extinguish a debt which exists, and to avoid contracting more, are ideas almost always favored by public feeling and opinion; but to pay taxes for the one or the other purpose, which are the only means to avoid the evil, is always more or less unpopular. Hence it is no uncommon spectacle to see the same man clamoring for occasions of expense, when they happen to be in unison with the present humor of the community, well or ill directed, declaiming against a public debt, and for the reduction of it; yet vehement against every plan of taxation, which is proposed to discharge old debts, or to avoid new ones by defraying the expenses of exigencies as they emerge."

An act conforming nearly to the plan reported was passed. It established a sinking fund, consisting of the surplus revenues, of bank dividends, and the proceeds of the sales of public lands; together with a few other items. The permanent appropriation of the duties on domestic spirits and on stills, being strongly objected to, these temporary taxes were to be continued only till 1801; the others were permanently pledged to the payment of the public debt; for which purpose this fund was to be vested, as property in trust, in the commissioners of the sinking fund. By this act was consummated the funding system of the secretary of the treasury, under which the whole national debt was ultimately extinguished.

On the 31st of January, 1795, Mr. Hamilton resigned, and was succeeded by Oliver Wolcott, of Connecticut. Gen. Knox had resigned on the first day of the month, and Timothy Pickering, of Massachusetts, then postmaster-general, was appointed as his successor. He was succeeded by Joseph Habersham, of Georgia, as postmaster-general.

On the 3d of March, the constitutional term of the third congress expired. This session was less distinguished for the number of its important acts—though some of them were really such—than for the warmth and acrimony of its debates.

On the 7th of March, 1795, the president received “a treaty of amity, commerce, and navigation, between his Britannic majesty and the United States,” which had been concluded by Mr. Jay and lord Grenville, on the 19th of November. On the 8th of June, the treaty was submitted to the senate, specially convened for this purpose. The first of the two primary objects of negotiation, namely, indemnity to American merchants for the illegal capture of their property under British orders, was secured by the treaty. The second of these objects was partially attained. The western posts were to be surrendered by the 1st of June, 1796. The negroes carried away by the British commander not being deemed by the British negotiator of a class to which the prohibition of the treaty applied, no compensation for them was allowed. The British creditors were to be compensated for losses caused by laws of any of the states obstructing the collection of debts contracted prior to the revolutionary war.

The citizens of each country were to enjoy the right to hold and convey lands in the territories of the other. Debts contracted, or engagements made by the citizens of the one with those of the other, were not to be impaired in case of national differences. Free trade with the Indians, except within the limits of the Hudson’s bay company; and the free use of the Mississippi river, were to be enjoyed by both parties. So far, the provisions of the treaty were to be permanent.

The other articles, relating to commerce and navigation were limited to two years after the termination of the existing European war, and in any case, to a term not exceeding twelve years. In the trade between the United States and the British dominions in Europe and the East Indies, the vessels and cargoes of each party were to be admitted into the ports of the other, on terms of equality with the most favored nation; the British government reserving the right to countervail American discriminating tonnage and import duties. A direct trade with the British West Indies was permitted in American vessels of a burden not exceeding seventy tons, and in the products of the United States and those of the islands. But this privilege, restricted as it was, was only to be obtained by yielding the right of carrying molasses, sugar, coffee, cocoa, or cotton, either from the United States, or the islands, to any other country.

The treaty also enumerated certain articles which were to be deemed contraband of war. Provisions and other articles not usually contraband,

if they should at any time become so, according to the law of nations, were not to be confiscated, but paid for by the captors or the government. Vessels having made prizes of the property of the citizens of either party, were not allowed a shelter in the ports of the other; but this privilege was to be enjoyed by the ships of war, or privateers of the contracting parties

The treaty was far from meeting the wishes either of the president, or of the senate; yet, considering the tenacity with which Great Britain clung to a system to which she owed her commercial importance, more favorable terms could hardly have been expected. The most objectionable provision was that in the 12th article, which related to the West India trade. Among the commodities, the carrying of which to Europe in American vessels was to be prohibited, was cotton. This article, of which the United States had scarcely produced a supply for home consumption, had just begun to be exported; a fact said to have been unknown to Mr. Jay. As this product was soon to become one of the principal exports from this country, and as the relinquishment of the right to transport the other articles above mentioned, was a sufficient sacrifice for the restricted West India trade allowed by the treaty, the senate concluded to exclude this provision in the ratification, and recommended the addition of a clause suspending its operation; leaving for future negotiation, this question, with that of the impressment of American seamen, and others, upon which the parties had been unable to come to a satisfactory agreement. In this shape, the senate, by a vote of 20 to 10, a bare constitutional majority, advised the ratification.

The president, considering the defects of the treaty to be overbalanced by its advantages, had resolved to ratify it, if it should be approved by the senate. This determination was also approved by the members of the cabinet, with one exception. But the recommendation, by the senate, of the suspending clause, required consideration. It was not clear to the mind of the president, that the senate could advise and consent to an article that had not been laid before them; or that he could ratify the treaty until the proposed clause had been added. The doubts of the president, however, were soon removed. But before signing the treaty, an additional cause of delay arose. It was stated in English papers, though not officially, that the order of the 8th of June, 1793, for the seizure of provisions going to French ports, had been renewed. Great Britain, it will be recollected, claimed the right of making provisions contraband, with a view to reduce an enemy. This right the American government did not concede, except in cases of blockade. The president, therefore, deferred for a time the execution of his design, and directed a memorial to the British government against this order to be prepared,

together with instructions to our minister to continue negotiations upon matters yet unadjusted. He then (July 15th) left for Mount Vernon.

No preceding measure of the administration, probably, encountered a more furious opposition than this. Public meetings were held, not only in the cities, but in country towns, to condemn the treaty. Essays were written, in which it was closely scrutinized and severely reprobated. In Philadelphia, an attempt was made to burn Mr. Jay and the ratifying senators in effigy; and copies of the treaty were carried before the doors of the British minister, British consul, and Mr. Bingham, a senator who had voted for its ratification, and burned amid the huzzas of the multitude. Subsequently, in Boston, an effigy of Mr. Jay was burned in the street.

The president returned to Philadelphia on the 11th of August; and the next day the question of ratification was brought before the cabinet. Mr. Randolph, who had before recommended a suspension of the ratification until the provision order should be repealed, now gave it as his opinion that the treaty ought not to be ratified while the war continued between Great Britain and France. The other three members concurring with the president in the expediency of immediate ratification, with a memorial against the provision order, the treaty, with the suspension clause, was signed on the 14th, and Mr. Randolph was directed to complete the memorial and instructions, then remaining unfinished. This course was successful. The order was revoked, and the ratifications of the treaty were exchanged.

It was hoped by the president, that the ratification of the treaty would check the violence with which it had been assailed. But it seemed rather to increase the bitterness of the opposition. To weaken the support which the treaty was known to derive from the president's personal popularity, his merits as a soldier and statesman were disparaged. His private character did not escape detraction. He was accused of having overdrawn the amount of salary, and appropriated the money to his private use. In authorizing the negotiation of a treaty without previously consulting the senate, he had violated the constitution, for which he ought to be impeached.

Notwithstanding the increased virulence of the opposition, the number of the friends of the treaty also appeared to increase. The commercial community generally were in its favor. Public meetings were held in many parts of the country. Reflecting men, governed by judgment rather than partisan zeal, sustained the administration. Commerce, notwithstanding the restrictions under which it labored, was rapidly increasing; and it was deemed unwise to jeopard the public prosperity by a course of policy likely to result in a war, which, though perhaps justifiable, was not indispensable to the maintenance of the national honor.

During the ensuing fall and winter, the subject of the treaty was introduced into the legislatures of a majority of the states, for the purpose of condemnation or approval. In one or two only of these states, it is believed, did resolutions disapproving the treaty pass both houses. By the legislature of Virginia, resolutions were adopted proposing several amendments to the constitution, abridging the power of the senate, and reducing the term of office to three years; and requiring the concurrence of the house of representatives in making treaties; but we are not aware that the proposition met with a favorable response in any state: by several of the state legislatures they were discountenanced by a formal vote.

In August, 1795, Mr. Randolph resigned the office of secretary of state, and that of attorney-general was vacated by the death of Mr. Bradford. Both these offices continued vacant until the next annual meeting of the senate. On the 10th of December, Timothy Pickering, secretary of war, by whom the duties of secretary of state also had been performed, was appointed to the head of the state department; and Charles Lee, of Virginia, was on the same day appointed attorney-general. On the 27th of January, 1796, James M'Henry, of Maryland, was appointed secretary of war, in the place of Mr. Pickering.

On the 3d of August, 1795, a satisfactory treaty was concluded with the north-western Indians.

On the 27th of October, after a negotiation of about fifteen years, a treaty was also concluded with Spain; by which the claim of the United States as to the Florida boundary, and the right to a free navigation of the Mississippi river, were both conceded. In defining neutral rights, the treaty, as that with France, provided that provisions and naval stores were not to be deemed contraband, and that free ships should make free goods. And compensation was to be made to American citizens for property illegally captured by Spanish cruisers.

A treaty of peace with the dey of Algiers was made on the 5th of September, and the American captives released from their cruel imprisonment. The ransom of these prisoners was effected at an expense of about one million of dollars.

The fourth congress met on the 7th of December, 1795. In his speech, delivered the next day, the president congratulated the country on the restoration of peace with the western Indians; on the favorable advices from Algiers and Spain, the treaties not having as yet been received; and on the general internal tranquillity, the rapid increase of population, and the unexampled prosperity of our agriculture, commerce, and manufactures, the molestations of our trade having been overbalanced by the aggregate benefits derived from a neutral position. The

decision of the British government with respect to the amended treaty, being yet unknown, would be communicated when received. Subjects of legislation to which he called the attention of congress, were, a review of the military establishment, a more complete organization of the militia, and more effectual provisions for the protection of the Indians from the violence of the lawless part of our frontier inhabitants, as being necessary to prevent destructive retaliations by the Indians.

The answer of the senate, expressing their approval of the foreign policy of the president, was adopted, 14 to 8.

In the house, the answer reported by the committee, declared the undiminished confidence of the people in the president. This declaration was objected to as untrue; and before a direct vote was taken upon it the address was recommitted, and so modified as to render it acceptable to the majority, which, as in the last preceding house, was opposed to the administration. The treaty with Great Britain, though not directly disapproved, was treated in a manner indicating the sense of the majority.

On the first of January, 1796, an occurrence of some interest took place at the seat of government. Mr. Monroe, it will be recollected, was appointed minister to France in the summer of 1794. Soon after his arrival, he presented to the national convention the flag of the United States, as a token of the friendship and good will of his country toward the French republic. Fauchet having been recalled, Adet, his successor, who arrived in the United States in June, 1795, was directed to reciprocate this expression of friendship, by presenting to the American government the flag of France. This ceremony had been delayed until the first of January, when the flag was publicly delivered to the president, with a letter from the French committee of safety, expressing the joy with which they had received the declarations which the American minister had made of the friendly dispositions of his government toward the French republic.

In his address to the president, Mr. Adet said France recognized the people of the United States as "friends and brothers. Long accustomed to regard them as her most faithful allies, she sought to draw closer the ties already formed in the fields of America, under the auspices of victory, over the ruins of tyranny."

The president, in reply, expressed his sympathies and those of his fellow-citizens for the people of France, and congratulated them on the recent substitution of a republican constitution for the revolutionary government, and concluded thus: "I receive, sir, with lively sensibility, the symbol of the triumphs and of the enfranchisements of your nation, the colors of France, which you have now presented to the United States. The transaction will be announced to congress, and the colors

will be deposited with the archives of the United States, which are at once the evidence and the memorials of their freedom and independence: may these be perpetual! and may the friendship of the two republics be commensurate with their existence!"

The colors of France, and the letter of the committee of safety, with the address of Adet, and the president's answer, were all transmitted to congress.

On the 1st of March, 1796, the president sent to the house a copy of the treaty with Great Britain which had been returned, in the form advised by the senate, ratified by his Britannic majesty, with the information that the treaty had been proclaimed as the law of the land. The debate to which this communication gave rise was exceedingly animated. Upon no other measure of the administration, perhaps, had the public mind been more sensibly agitated, or party passion raised to a higher pitch. It was viewed by many as virtually a question of peace or war; and what gave it additional importance was, that it involved the constitutional questions, *whether the assent of the house was essential to the obligation of a treaty*, and *whether the president had a right to negotiate a treaty of commerce*.

The first discussion arose upon a motion of Edward Livingston, of New York, to request the president to lay before the house a copy of his instructions to Mr. Jay, with the correspondence and other documents relating to the treaty. Several days afterward, the resolution was amended by the mover, by adding, "excepting such of the papers as any existing negotiation may render improper to be disclosed." The propriety of this call was questioned by the minority, unless there was an intimation to impeach the president or Mr. Jay. But the principal topic of discussion was the nature and extent of the treaty-making power; or the right of the house to refuse the means of carrying a treaty into effect.

It was argued by the friends of the administration, that a treaty was complete, according to the constitution, when, by the advice and consent of the senate, it had received the signature of the executive; and that the non-compliance, on the part of the house, with its stipulations, was a breach of a solemn contract, and a violation of the public faith. On the other hand, it was maintained, that the power to make treaties, if extended to every object, would interfere with the constitutional powers of congress. Hence, treaties requiring the appropriation of money, or any other act of congress to carry them into effect, could not have force without consent of the house; therefore the refusing of such appropriation or law was no violation of an existing obligation. The debate was continued until the 24th of March, when the resolution was adopted, 62 to 37.

The president was now placed in a delicate situation. The house, not having been made by the constitution a part of the treaty-making power, had no right to demand the papers relating to the negotiation. To comply with the call would be to concede this right, and to establish a dangerous precedent. A non-compliance, on the contrary, would increase the popular clamor against the administration, and confirm the suspicions of many, that there were facts connected with the negotiation which the president feared to expose. As there was nothing in the whole affair which he wished to conceal—indeed all the papers affecting the negotiation had already been laid before the senate—the question was simply one of popularity or duty.

The answer declining a compliance with the call, was returned on the 30th of March. After disclaiming “a disposition to withhold any thing which the constitution has enjoined it upon the president as a duty to give, or which could be required of him by either house of congress as a right,” he proceeds to argue the question: “The nature of foreign negotiations requires caution, and their success often depends on secrecy. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the president, with the advice and consent of the senate, the principle on which that body was formed confining it to a small number of members. To admit, then, a right in the house of representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign power, would be to establish a dangerous precedent. * * *

“Having been a member of the general convention, and knowing the principles on which the constitution was formed, I have ever entertained but one opinion upon this subject; and from the first establishment of the government to this moment, my conduct has exemplified that opinion: That the power of making treaties is exclusively vested in the president, by and with the advice and consent of the senate, provided two-thirds of the senate concur; and that every treaty so made and promulgated, is thenceforward the law of the land. It is thus that the treaty-making power has been understood by foreign nations: and in all the treaties made with them, *we* have declared, and *they* have believed, that, when ratified by the president, with the advice and consent of the senate, they became obligatory. In this construction of the constitution, every house of representatives has heretofore acquiesced; and until the present time, not a doubt or suspicion has appeared to my knowledge, that this construction was not the true one. Nay, they have more than acquiesced; for until now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect.”

In confirmation of this construction, the president refers to the deli

berations of the state conventions on the constitution, in which it was objected to that instrument, that in certain treaties the concurrence of both houses was not required. Proof was also found in the concession by the general convention, to the small states of an equal representation in the senate, and investing this body at the same time with the treaty-making power. And he refers also to the journals of the convention, from which it appears that a proposition, "that no treaty should be binding on the United States which was not ratified by a law," was rejected.

"As, therefore," said the president in conclusion, "it is perfectly clear to my understanding, that the assent of the house of representatives is not necessary to the validity of a treaty; as the treaty with Great Britain exhibits within itself all the objects requiring legislative provision; and on these the papers can throw no light; and as it is essential to the due administration of the government, that the boundaries fixed by the constitution between the different departments should be preserved; a just regard to the constitution, and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request."

On the 6th of April, this message was referred to a committee of the whole, and two resolutions were moved by Mr. Blount, of North Carolina, the first of which disclaimed the right of the house to interfere in making treaties, but asserted the right to carry into effect, or not, any treaty stipulations on subjects committed by the constitution to congress; the second affirmed that the house was not bound to give any reasons for a call upon the executive for information. These resolutions were carried, 57 to 35.

On the 13th of April, copies of the treaties with Spain, Algiers, and the north-western Indians, having been previously communicated to the house, Mr. Sedgwick moved, "that provision ought to be made by law for carrying into effect, with good faith, "the treaties concluded with the dey and regency of Algiers, the king of Great Britain, the king of Spain, and certain Indian tribes north-west of the Ohio." The object of the mover in joining all these treaties in one motion, was not attained. The motion was divided, and the question taken upon the treaties separately. Resolutions declaring it expedient to carry into effect the other three treaties having been adopted, that relating to the British treaty was taken up.

The debate in committee of the whole commenced on the 15th of April, and continued until the 29th. Speeches were made by more than thirty members. Among the opponents of the treaty whose names are most conspicuous, were Mr. Madison, by whom the debate was opened, and Mr. Gallatin, who had just commenced his public career, as a repre-

sentative from the insurrection district in western Pennsylvania. He had been previously chosen a senator in congress ; but on its being ascertained that he had not been nine years a citizen of the United States, he was excluded from his seat in that body. He had taken the lead in the debate on the call for the instructions, and was the most prominent and effective speaker against the treaty.

To do justice to the principal participators in this celebrated debate, would require the transfer, to our pages, of more copious extracts from their speeches, than our prescribed limits will permit. The grounds on which the treaty was opposed and supported, are thus summarily stated by Pitkin :

" The objections of those opposed to carrying the treaty into effect, were generally, that it wanted reciprocity ; that it gave up all claim of compensation for negroes carried away contrary to the treaty of peace, and for the detention of the western posts ; that it contravened the French treaty, and sacrificed the interest of an ally to that of Great Britain ; that it gave up, in several important instances, the law of nations, particularly in relation to free ships making free goods, cases of blockade, and contraband of war ; that it improperly interfered with the legislative powers of congress, especially by prohibiting the sequestration of debts ; and that the commercial part gave few if any advantages to the United States.

" On the other hand it was urged, the treaty had been constitutionally made and promulgated ; that a regard to public faith and the best interests of the country, under all the circumstances, required that it should be carried into effect, although not in all respects perfectly satisfactory ; that it settled disputes between the two governments of a very long standing, of a very interesting nature, and which it was particularly important for the United States to bring to a close ; that provision was also made for a settlement of those of a more recent date, not less affecting the sensibility as well as honor of the country, and in which the commercial community had a deep interest ; that in no case had the law of nations been given up ; that the question as to provisions being contraband, although not settled, was left as before the treaty ; that the conventional rights of France were saved by an express clause. And as to the sequestration of private debts, it was said to be contrary to every principle of morality and good faith, and ought never to take place ; that the commercial part would probably be mutually beneficial, was a matter of experiment, and was to continue only two years after the close of the war in Europe : that, in fine, on the part of the United States, the only choice left was treaty or war."

The ability and eloquence displayed on this question, have seldom been

surpassed in that body. It was near the close of the debate, that the celebrated speech of Fisher Ames in favor of the treaty was delivered. As a specimen of eloquence, this speech has been considered by many as almost unrivaled. Immediately after it was concluded, numerous calls were made for the question; but the opposition members, unwilling to have the vote taken under the immediate influence of the speech, postponed the question until the next day, (April 29,) when it was carried, in committee of the whole, by the casting vote of the chairman, (Muhlenburg,) who, though belonging to the opposition, did not wish to take the responsibility of deciding the question, as the resolution would still be subject to amendment in the house. In the house, after an ineffectual attempt so to amend the resolution, as to declare the treaty, "highly objectionable," it was carried, 51 to 48. [Appendix, Note B.]

Never, perhaps, have greater efforts been made to sustain or defeat a measure than in the present instance. Public meetings were held in all quarters of the union; and petitions from all classes of the people were poured in upon the house to back up the speeches of their representatives. The prospect of a defeat of the treaty had alarmed the merchants. Indeed its effects upon commerce were already felt. And the petitions from this influential class of men, in all the great commercial cities, had no slight share in producing the final result.

This was the last measure of much importance that engaged the attention of congress at the present session, which was terminated on the first of June.

Thomas Pinckney, minister at London, having previously requested a recall, was succeeded by Rufus King, who was appointed the 20th of May, 1796.

The French government having been officially informed that the president had ratified the treaty with Great Britain, the minister of foreign affairs, in February, 1796, informed Mr. Monroe that the directory, (the executive power under the new constitution, consisting of five persons,) considered the alliance between the United States and France terminated by Jay's treaty; that Adet was to be recalled, and a special envoy was to be sent to make the announcement to the American government. A few days afterward, Mr. Monroe was presented with a list of the complaints preferred by the French government against the United States.

The most prominent subject of complaint against the United States was, that in their treaty with Great Britain, they had abandoned the principle, that free ships should make free goods, and that naval stores and provisions were made contraband. By the treaties of the United States with France and Great Britain, French property in American vessels was liable to seizure by British cruisers, while British goods were

secure in American vessels. This, however, was no just ground of complaint. Great Britain had only reserved a right to which she was entitled by the law of nations; whereas, France, supposing it to be more for her interest, had preferred a different principle, which unforeseen events had rendered disadvantageous.

The French government was reminded of the decree of the convention issued in May, 1793, in direct violation of this very stipulation of the treaty. Under this decree, about fifty American vessels had been captured and deprived of their cargoes, which were yet unpaid for. Nearly twice that number had been detained at Bourdeaux.

De la Croix had intimated to Mr. Monroe, in February, that the directory had determined on some retaliatory measures. Encouraged to believe that the house of representatives would defeat the treaty by withholding the means of carrying it into effect, the contemplated measures were for the time delayed. News of the decision of the house of representatives reached Paris in June; and on the 2d of July, the directory issued a decree, that "all neutral or allied powers shall, without delay, be notified, that the flag of the French republic will treat neutral vessels, either as to confiscation, as to searches, or capture, in the same manner as they shall suffer the English to treat them."

It is supposed to have been the purpose of France, with the aid of Spain and Holland, to defeat the operation of the treaty. In August, 1796, France and Spain entered into a treaty of alliance, offensive and defensive, by which they guarantied to each other all their possessions, and agreed to make common cause to ensure "safety to the neutral flag;" in other words, to compel the United States to protect French and Spanish property in American vessels, in contravention of the treaty stipulation with Great Britain. Accordingly, Spain also, instigated probably by France, complained to the American government of the unequal footing upon which she had been placed by the British treaty, and made this a pretext for not delivering up the posts on the Mississippi and running the southern boundary line.

Holland also, then dependent on France, remonstrated against the United States permitting the property of her citizens to be taken from American vessels. Said the minister of foreign affairs to John Quincy Adams, then minister in that country: "When circumstances oblige our commerce to confide its interests to the neutral flag of American vessels, it has a right to insist that that flag be protected with energy, and that it be not insulted at the expense of a friendly and allied nation." And he intimated that the United States ought to make common cause with the French republic. Mr. Adams, writing to the American government, said he had received intimations of a secret purpose of the French

government to defeat, if possible, the treaty lately concluded between the United States and Great Britain.

With the view to this object, probably, was the attempt afterward made to separate the people of the west from the union, and to induce them to join with Spain in forming a new empire. The western people having, since the first attempt at separation, obtained the free navigation of the Mississippi, this new project met with little favor.

The president was not fully satisfied with the conduct of Mr. Monroe at the French court. The principal ground of dissatisfaction was the want of promptitude in making to that government the explanations furnished him by the president in justification of the treaty with Great Britain. It was suspected that the delay had been occasioned by his reluctance to justify a measure which he disapproved. The president at first determined to associate with Mr. Monroe a minister extraordinary, in order to insure a more efficient representation of the views of the administration. But perceiving, upon reflection, that the constitution authorized him only to fill vacancies during the recess of the senate, and not to appoint additional officers, he concluded to recall Mr. Monroe; and on the 9th of September, 1796, appointed in his place Charles Cotesworth Pinckney, of South Carolina, brother of Thomas Pinckney late minister to Great Britain.

CHAPTER XI.

WASHINGTON DECLINES ANOTHER REELECTION.—HIS LAST ANNUAL MESSAGE.—MR. PINCKNEY EXPELLED FROM FRANCE.—ELECTION OF ADAMS AND JEFFERSON.

As a few months only were to intervene before a new election of chief magistrate was to be made, the public attention had already begun to be directed to the selection of candidates for that office. It was generally supposed to be the determination of the president to decline being again a candidate. Notwithstanding the unscrupulous efforts, not only to render his administration odious, but to shake the public confidence in Washington himself, he still retained the affections of the great mass of the people. His retirement at the present juncture would, it was feared, expose the national policy just established to great hazard. Of his reelection, should he be a candidate, there was no reasonable doubt.

The success of any other person of the same political party, was doubtful; and even if elected, it was by no means certain that his personal popularity could impart to his administration sufficient strength to withstand the powerful and determined opposition which it was destined to encounter.

Hence Washington was strongly urged by many of his friends to change his purpose, and once more to consent to sacrifice his individual ease and happiness for the public welfare. Ardently as he desired a release from the cares and responsibilities of public life, induced, probably, by the pressing solicitations of his friends, he delayed, for the present, the announcement of his intention to decline. In the mean time, unscrupulous efforts were kept up, not only to turn the popular sentiment against his policy, but to weaken his hold on the affections of the people. No artifice was supposed to be more likely to effect this object, than to represent him as friendly to England and inimical to France.

It will be recollected that the president addressed to the members of his cabinet a series of questions for their consideration, prior to the meeting at which it was decided to issue the proclamation of neutrality. A number of essays appeared in the *Aurora*, in one of which these queries were inserted, and made the subject of bitter denunciation. "Perfidy and ingratitude," it was said, "were stamped on their front." They were "a stupendous monument of degeneracy. It would almost require the authenticity of holy writ to persuade posterity that they were not a libel ingeniously contrived to injure the reputation of the savior of his country."

This document being strictly confidential, it could have become public only by a betrayal of confidence. Mr. Jefferson, to free himself from suspicion, immediately wrote a letter to the president, assuring him of his own innocence. The president, in answer, said he did not suspect him of having given the queries publicity. He was, however, "at no loss to conjecture from what source they flowed, through what channel they were conveyed, nor for what purpose they and similar publications appeared." [The "source" here alluded to, was probably Mr. Randolph.] The letter proceeds to say:

"As you have mentioned the subject yourself, it would not be frank, candid, or friendly, to conceal, that your conduct has been represented as derogating from that opinion I conceived you entertained of me; that to your particular friends and connections you have described, and they have denounced me, as a person under a dangerous influence; and that if I would listen more to some other opinions, all would be well. My answer invariably has been, that I had never discovered any thing in the conduct of Mr. Jefferson to raise suspicions in my mind of his

sincerity; that if he would retrace my public conduct while he was in the administration, abundant proof would occur to him, that truth and right decisions were the sole objects of my pursuit; that there were as many instances within his own knowledge of my having decided against as in favor of the person evidently alluded to, (Hamilton;) and moreover, that I was no believer in the infallibility of the politics or measures of any man living. In short, that I was no party man myself; and that the first wish of my heart was, if parties did exist, to reconcile them.

"To this I may add, that until the last year or two, I had no conception that parties would, or even could, go the lengths I have been witness to; nor did I believe, until lately, that it was within the bounds of probability—hardly within those of possibility—that while I was using my utmost exertions to establish a national character of our own, independent as far as our obligations and justice would permit, of every nation of the earth; and wished, by steering a steady course, to preserve this country from the horrors of a desolating war; I should be accused of being the enemy of one nation, and subject to the influence of another; and to prove it, that every act of my administration would be tortured, and the grossest and most insidious misrepresentations of them be made, by giving one side only of a subject, and that, too, in such exaggerated and indecent terms as could scarcely be applied to a Nero—to a notorious defaulter, or even to a common pick-pocket.

"But enough of this; I have already gone further in the expression of my feelings than I intended."

This letter would seem to indicate a suspicion, on the part of Washington, that Jefferson was secretly endeavoring to impair the public confidence in him. This suspicion subsequent events tended to strengthen and confirm. Among these was the appearance the next year, of a letter written by Mr. Jefferson, in April, 1796, to P. Mazzei, a foreigner, and which had found its way back to this country. The letter as it first appeared in the papers, being, as Mr. Jefferson alleged, an imperfect translation, we give it as corrected by himself.

"MY DEAR FRIEND: The aspect of our politics has wonderfully changed since you left us. In place of that noble love of liberty and republican government which carried us triumphantly through the war, an Anglican monarchical and aristocratic party has sprung up, whose avowed object is to draw over us the substance, as they have already done the forms, of the British government. The main body of our citizens, however, remain true to their republican principles: the whole landed interest is republican, and so is a great mass of talents. Against us are the executive, the judiciary, two out of three branches of the legislature, all the officers of the government, all who want to be officers,

all timid men who prefer the calm of despotism to the boisterous sea of liberty, British merchants, and Americans trading on British capitals, speculators and holders in the banks and public funds, a contrivance invented for the purposes of corruption, and for assimilating us in all things to the rotten as well as the sound parts of the British model. It would give you a fever were I to name to you the apostates who have gone over to these heresies, men who were Samsons in the field and Solomons in the council, but who have had their heads shorn by the harlot England. In short, we are likely to preserve the liberty we have obtained only by unremitting labors and perils. But we shall preserve it; and our mass of weight and wealth on the good side is so great, as to leave no danger that force will ever be attempted against us. We have only to awake, and snap the Lilliputian cords with which they have been entangling us during the first sleep which succeeded our labors. It suffices that we arrest the progress of that system of ingratitude and injustice toward France, from which they would alienate us, to bring us under British influence."

Such a letter from one with whom he had long sustained the most intimate and friendly relations, private and official—accusing him of antagonism to republican principles, and of cooperating with a monarchical party to change the government—characterizing his administration as "the calm of despotism," and representing its measures as "contrivances invented for the purposes of corruption"—gave Washington great pain, and greatly marred, if it did not terminate, the friendship which had so long subsisted between these two eminent and esteemed individuals.

A principal object of Washington's opponents was to induce the belief that he was inimical to France, and friendly to Great Britain. In 1777 a number of forged letters were published, purporting to have been written by him in 1776, to certain friends, and containing expressions in opposition to the cause of independence, and favorable to Great Britain. The calumny was revived by the republication of these letters; and as he treated it with silence, the genuineness of the letters was, to some extent, and for a time, believed. To prevent future injury to his political character, on the day of his retirement from office, (March 3, 1797,) he addressed to the secretary of state, a letter, solemnly declaring the letters "a base forgery," and detailing circumstances proving them to be such; and concluding with a request, that the present letter might be deposited in the office of the state department "as a testimony of the truth to the present generation, and to posterity."

Having fully determined to decline another election, the president announced his determination in a valedictory address to the people of the United States, which bears date September 16th, 1796. This

address contains summary of the political maxims by which he had been governed in the conduct of his administration, and the observance of which he deemed indispensable to the future safety and welfare of the nation. [Note, page 995.]

Washington having explicitly declined a reëlection, the federalists united upon John Adams and Thomas Pinckney as their candidates for president and vice-president; and the republicans supported Mr. Jefferson and Aaron Burr. The struggle was a very ardent and a bitter one. The feelings, not only of the American people, but of foreigners, especially the French, were deeply enlisted in it. The French minister was more than a concerned spectator to the contest. Just before the election he sent a communication to the secretary of state, containing a repetition of the various accusations against our government, of bad faith, of injustice, and of ingratitude towards France. The object of this letter at this particular time, was sufficiently disclosed by its being sent, at the same time, to the Aurora newspaper for publication. This extraordinary *diplomatic* letter concludes thus:

“Alas! time has not yet demolished the fortifications with which the English roughened this country, nor those the Americans raised for their defense: their half rounded summits still appear in every quarter, amidst plains, on the tops of mountains. The traveler need not search for the ditch which served to encompass them; it is still open under his feet. Scattered ruins of houses laid waste, which the fire had partly respected, in order to leave monuments of British fury, are still to be found. Men still exist, who can say, here a ferocious Englishman slaughtered my father; there my wife tore her daughter from the hands of an unbridled Englishman. Alas! the soldiers who fell under the sword of the Britons are not yet reduced to dust: the laborer, in turning up his field, still draws from the bosom of the earth their whitened bones; while the ploughman, with tears of tenderness and gratitude, still recollects that his fields, now covered with rich harvests, have been moistened with French blood. While every thing around the inhabitants of this country animates them to speak of the tyranny of Great Britain, and of the generosity of Frenchmen; when England has declared a war of death to that nation, to avenge herself for its having cemented with its blood the independence of the United States;—it was at this moment their government made a treaty of amity with their ancient tyrant, the implacable enemy of their ancient ally. Oh, Americans, covered with noble scars! Oh, you who have so often flown to death and to victory with French soldiers! you who know those generous sentiments which distinguish the true warrior! whose hearts have always vibrated with those of your companions in arms! consult them to-day to know what they experience.

Recollect, at the same time, that if magnanimous souls with liveliness resent an affront, they also know how to forget one. Let your government return to itself, and you will still find in Frenchmen faithful friends and generous allies."

Adet also announced in this letter the orders of the French directory to suspend his ministerial functions with the federal government. This act, however, was not intended "as a rupture between France and the United States, but as a mark of just discontent which was to last until the government of the United States returned to sentiments and to measures more conformable to the interests of the alliance, and the sworn friendship between the two nations." After the manner of Genet, he denounces the government, but flatters the people. "Notwithstanding the wrongs of the *government*," he says, "the directory do not wish to break with a *people* whom they love to salute with the appellation of a friend."

It is but justice to the discreet and reflecting men of the opposition party, to say, that they disapproved this interference, on the part of a foreign minister, in the election of a chief magistrate; and we are informed that it appeared to have had no sensible effect upon the election.

About the same time, there appeared in the same newspaper, an order from Adet, in the name of the French directory, to Frenchmen in the United States, to wear the tri-colored cockade; which was accordingly done, not by Frenchmen only, but by many of our own citizens.

Congress met on the 5th of December, 1796; and on the 7th, Washington addressed the legislature for the last time. The adjustment of difficulties with the Indians, with Great Britain, Spain and Algiers, and the pending negotiations with Tunis and Tripoli, were made subjects of communication. To secure respect to our neutral flag, and to protect our trade to the Mediterranean, he recommended the gradual creation of a navy. The encouragement of manufactures, agriculture, the arts and sciences, was also commended to the attention of congress. In adverting to our relations with France, the president said: "Our trade has suffered, and is suffering, extensive injuries in the West Indies from the cruisers and agents of the French republic; and communications have been received from its minister here, which indicate the danger of a farther disturbance of our commerce, by its authority, and which are, in other respects, far from agreeable." He expressed the wish to continue to maintain cordial harmony and a friendly understanding with that nation, and cherished the "expectation that a spirit of justice, candor, and friendship, on the part of the republic, would eventually insure success."

The following is the concluding paragraph of his speech. "The situ-

ation in which I now stand, for the last time, in the midst of the representatives of the people of the United States, naturally recalls the period when the administration of the present form of government commenced; and I can not omit the occasion to congratulate you and my country on the success of the experiment, nor to repeat my fervent supplications to the Supreme Ruler of the universe, and the Sovereign Arbiter of nations, that his providential care may still be extended to the United States; that the virtue and happiness of the people may be preserved; and that the government which they have instituted for the protection of their liberties may be perpetuated."

The answers of both houses were such as could not fail to be gratifying to the president. That of the house, however, was not adopted without considerable opposition. From the draft, as reported by the committee, Mr. Giles moved to strike out several whole paragraphs, one of which was the following: "And while we entertain a grateful conviction that your wise, firm, and patriotic administration has been signally conducive to the success of the present form of government, we can not forbear to express the deep sensations of regret with which we contemplate your intended retirement from office."

Mr. Giles would not admit that the administration had been wise and firm. It was from a want of wisdom and firmness that we were brought into our present critical situation. He did not regret his retirement from office. He hoped he would retire to his country-seat and enjoy all the happiness he could wish; and he believed he would enjoy more there than in his present situation. He believed there were a thousand men in the United States, who were capable of filling the presidential chair as well as it had been filled heretofore. The motion of Mr. Giles to strike out was lost.

Objection was also made to the words, "the spectacle of a whole nation, the freest and most enlightened in the world." The exception taken to this expression is presumed to have been on the ground of its giving to this country, in respect to freedom and intelligence, the precedence of France. It was amended so as to read, "the spectacle of a free and enlightened nation."

A motion was also made to strike out the concluding sentence: "For our country's sake; for the sake of republicanism, it is our earnest wish that your example may be the guide of your successors, and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants." The motion failed. Of the twenty-four who voted for it, were Gallatin, Giles, Andrew Jackson, Edward Livingston, and Macon. On the question of adopting the address, the yeas and nays were called for by a member of the opposition. Among the twelve who voted in the negative, were Giles, Jackson, Livingston, and Macon.

In contrast with the answer of the two houses of congress to the speech of the president, and with the popular sentiment of the nation, we present an extract from an article which appeared a few days after in the Philadelphia Aurora, a violent opposition paper. "If ever a nation was debauched by a man, the American nation has been debauched by Washington. If ever a nation has been deceived by a man, the American nation has been deceived by Washington. Let his conduct, then, be an example to future ages. Let it serve to be a warning that no man may be an idol. Let the history of the federal government instruct mankind that the mask of patriotism may be worn to conceal the foulest designs against the liberties of the people."

As has been stated, the object of Mr. Pinckney's mission was to make full explanations to the French government of the conduct of the administration towards France, for the purpose of restoring harmony between the two countries. On the 19th of January, 1797, the president transmitted to congress a full and minute statement of the controversy with France; in which all her complaints were noticed, and her conduct, and that of her ministers, as well as that of our own government, carefully reviewed; and in which the latter was successfully vindicated. This exposition of our affairs with France was in the shape of a letter to Mr. Pinckney, designed to aid him in making a proper representation of the subject to the French government. And that the American people might have a correct view of this exciting controversy, the letter and the accompanying documents were made public.

Mr. Pinckney arrived at Paris about the 1st of December, 1796. On the 9th, Mr. Monroe presented his letter of recall, and Mr. Pinckney his letter of credence. Two days after, the minister of foreign affairs informed Mr. Monroe, that the directory would "no longer recognize a minister plenipotentiary from the United States, until after a reparation of the grievances demanded of the American government, and which the French government had a right to expect." Mr. Pinckney addressed a note to the French minister, inquiring whether it was intended that he should quit the republic. The minister, (De la Croix,) considering a direct communication with Mr. Pinckney an acknowledgment of him as minister, sent one of his secretaries to inform him that such was the intention of the directory. For his own justification, Mr. Pinckney desired a written answer; but obtained none until the last of January, when he received a written notice to quit the territory of the republic. He proceeded to Amsterdam to wait for instructions from his government. While at Paris, he was threatened with prosecution for a violation of the law which prohibited foreigners from remaining there without special permission. But he insisted with firmness on the protection of the law of nations due to him as the known minister of a foreign power

On the 8th of February, the electoral votes were opened and counted in the presence of both houses. Mr. Adams had received 71 votes, and Mr. Jefferson 69. Thomas Pinckney received 59; Aaron Burr, 30; Samuel Adams, 15; Oliver Ellsworth, 11; George Clinton, 7; John Jay, 5; scattering, 10.

At the close of this session, March 3, 1797, terminated the administration of Washington; during which all disputes with foreign nations, except those with France, were adjusted; credit was restored; the payment of the public debt was provided for; commerce was prosperous; agricultural products had a ready market; exports and imports had been nearly tripled; and the revenues exceeded all calculations.

After attending the inauguration of his successor, which took place the next day, he departed for Mount Vernon, receiving on his journey marks of undiminished esteem and affection from his fellow-citizens.

But these and numberless other unequivocal expressions of respect and veneration for the character of Washington did not shield him from detraction and calumny. His retirement furnished the occasion for at least one more assault of impotent malice through its accustomed channel, the organ of the opposition at the seat of government. Scarcely had he taken his departure from Philadelphia, before the following, ascribed to a public functionary high in the confidence of the leaders of the opposition, appeared in the *Aurora*:

"'Lord, now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation,' was the pious ejaculation of a man who beheld a flood of happiness rushing in upon mankind. If ever there was a time which would license the reiteration of this exclamation, that time is now arrived; for the man who is the source of all the misfortunes of our country is this day reduced to a level with his fellow-citizens, and is no longer possessed of power to multiply evils upon the United States. If ever there was a period for rejoicing, this is the moment. Every heart in unison with the freedom and happiness of the people, ought to beat high with exultation that the name of Washington from this day ceases to give a currency to political iniquity and to legalized corruption. A new era is now opening upon us—an era which promises much to the people; for public measures must now stand upon their own merits, and nefarious projects can no longer be supported by a name. It is a subject of the greatest astonishment, that a single individual should have carried his designs against the public liberty so far as to have put in jeopardy its very existence. Such, however, are the facts; and with these staring us in the face, this day ought to be a jubilee in the United States!"

CHAPTER XII.

INAUGURATION OF MR. ADAMS.—RELATIONS WITH FRANCE.—SPECIAL SESSION.—MEASURES OF DEFENSE.—ALIEN AND SEDITION LAWS.

ON the 4th of March, 1797, John Adams was inaugurated president of the United States, in Congress Hall, at Philadelphia. Among the persons of distinction in attendance, were General Washington, the vice-president elect, the government officers, foreign ministers, members of congress, and many private citizens. After the address had been delivered, the oath of office was administered by Oliver Ellsworth, chief-justice of the supreme court.

Prominent members of the administration had been charged with disesteem for France, and a controlling sympathy for Great Britain, and a predilection for her form of government, especially for a more durable executive and senate than had been provided by the constitution. Mr. Adams availed himself of this occasion to disclaim these sentiments. He had, he said, first seen the constitution while in a foreign country, and had "read it with great satisfaction, as a result of good heads, prompted by good hearts, as an experiment better adapted to the genius, character, situation, and relations of this nation and country, than any which had ever been proposed or suggested." He had expressed his approbation of it on all occasions, in public and in private. It had never been any objection to it in his mind, that the executive and the senate were not more permanent. Having witnessed its successful operation, he had acquired an habitual attachment to it, and veneration for it.

Having expressed his admiration of some of the leading features of the government, he proceeds: "The existence of such a government as ours for any length of time, is a full proof of a general dissemination of knowledge and virtue throughout the whole body of the people. And what object or consideration more pleasing than this can be presented to the human mind? If national pride is ever justifiable, or excusable, it is when it springs, not from power or riches, grandeur or glory, but from conviction of national innocence, information, and benevolence.

"In the midst of these pleasing ideas, we should be unfaithful to ourselves if we should ever lose sight of the danger to our liberties, if any thing partial or extraneous should infect the purity of our free, fair, virtuous, and independent elections. If an election is to be determined by a majority of a single vote, and that can be procured by a party through artifice or corruption, the government may be the choice of a party for

its own ends, not of the nation for the national good. If that solitary suffrage can be obtained by foreign nations by flattery or menaces, by fraud or violence, by terror, intrigue, or venality, the government may not be the choice of the American people, but of foreign nations. It may be foreign nations who govern us, and not we, the people, who govern ourselves. And candid men will acknowledge, that in such cases choice would have little advantage to boast of over lot or chance."

The president then passed upon his illustrious predecessor the following truthful and appropriate encomium :

"Such is the amiable and interesting system of government, and such are some of the abuses to which it may be exposed, which the people of America have exhibited to the admiration and anxiety of the wise and virtuous of all nations for eight years, under the administration of a citizen, who, by a long course of great actions, regulated by prudence, justice, temperance, and fortitude, conducting a people, inspired with the same virtue, and animated with the same ardent patriotism and love of liberty, to independence and peace, to increasing wealth and unexampled prosperity, has merited the gratitude of his fellow-citizens, commanded the highest praises of foreign nations, and secured immortal glory with posterity.

"In that retirement which is his voluntary choice, may he long live to enjoy the delicious recollection of his services, the gratitude of mankind, the happy fruits of them to himself and the world, which are daily increasing, and that splendid prospect of the future fortunes of this country which is opening from year to year. His name may still be a rampart, and the knowledge that he lives, a bulwark against all open or secret enemies of his country's peace. His example has been recommended to the imitation of his successors by both houses of congress, and by the voice of the legislature and the people throughout the nation."

His own principles and rule of action are thus expressed :

"On this subject it might become me better to be silent, or to speak with diffidence ; but as something may be expected, the occasion I hope will be admitted as an apology, if I venture to say that if a preference, upon principle, of a free republican government, formed upon long and serious reflection, after a diligent and impartial inquiry after truth ; if an attachment to the constitution of the United States, and a conscientious determination to support it until it shall be altered by the judgment and wishes of the people, expressed in the mode prescribed in it ; if a respectful attention to the constitutions of the individual states, and a constant caution and delicacy toward the state governments ; if an equal and important regard to the rights, interest, honor, and happiness, of all the states in the union, without preference or regard to a northern or

southern, an eastern or western position, their various political opinions on essential points, or their personal attachments; if a love of virtuous men of all parties and denominations; if a love of science and letters, and a wish to patronize every rational effort to encourage schools, colleges, universities, academies, and every institution for propagating knowledge, virtue, and religion, among all classes of the people, not only for their benign influence on the happiness of life in all its stages and classes, and of society in all its forms, but as the only means of preserving our constitution from its natural enemies, the spirit of sophistry, the spirit of party, the spirit of intrigue, the profligacy of corruption, and the pestilence of foreign influence, which is the angel of destruction to elective governments; if a love of equal laws, of justice, and humanity, in the interior administration; if an inclination to improve agriculture, commerce, and manufactures, for necessity, convenience, and defense; if a spirit of equity and humanity toward the aboriginal nations of America, and a disposition to ameliorate their condition by inclining them to be more friendly to us, and our citizens to be more friendly to them; if an inflexible determination to maintain peace and inviolable faith with all nations, and that system of neutrality and impartiality among the belligerent powers of Europe which has been adopted by this government, and so solemnly sanctioned by both houses of congress, and applauded by the legislatures of the states and the public opinion, until it shall be otherwise ordained by congress; *if a personal esteem for the French nation, formed in a residence of seven years chiefly among them, and a sincere desire to preserve the friendship which has been so much for the honor and interest of both nations;* if, while the conscious honor and integrity of the people of America, and the internal sentiment of their own power and energies must be preserved, an earnest endeavor to investigate every just cause, and remove every colorable pretense of complaint; if an intention to pursue by amicable negotiation a reparation for the injuries that have been committed on the commerce of our fellow-citizens, by whatever nation, and if success cannot be obtained, to lay the facts before the legislature that they may consider what further measures the honor and interest of the government and its constituents demand; if a resolution to do justice as far as may depend upon me, at all times and to all nations, and maintain peace, friendship, and benevolence, with all the world; if an unshaken confidence in the honor, spirit, and resources of the American people, on which I have so often hazarded my all, and never been deceived; if elevated ideas of the high destinies of this country and of my own duties toward it, founded on a knowledge of the moral principles and intellectual improvements of the people, deeply engraven on my mind in early life, and not obscured but exalted by

experience and age, and with humble reverence, I feel it to be my duty to add, if a veneration for the religion of a people who profess and call themselves Christians, and a fixed resolution to consider a decent respect for Christianity among the best recommendations for the public service, can enable me in any degree to comply with your wishes ; it shall be my strenuous endeavor that this sagacious injunction of the two houses shall not be without effect.

“ With this great example before me, with the sense and spirit, the faith and honor, the duty and interest, of the same American people pledged to support the constitution of the United States, I entertain no doubt of its continuance in all its energy ; and my mind is prepared, without hesitation, to lay myself under the most solemn obligations to support it to the utmost of my power.

“ And may that Being who is supreme over all, the Patron of order, the Fountain of justice, and the Protector, in all ages of the world, of virtuous liberty, continue his blessing upon this nation and its government, and give it all possible success and duration consistent with the ends of his providence !”

No change was made in the cabinet, which then consisted of Timothy Pickering, secretary of state ; Oliver Wolcott, secretary of the treasury ; James M'Henry, secretary of war ; and Charles Lee, attorney-general. On the establishment of the navy department, the next year, Benjamin Stoddart, of Maryland, was appointed secretary of the navy ; George Cabot, of Massachusetts, having been first appointed and declined.

Our ministers at the principal foreign courts were the following : Rufus King, of New York, minister to Great Britain ; appointed May 20, 1796. To France, Charles Colesworth Pinckney, of South Carolina, September 9, 1796. To Spain, David Humphreys, of Connecticut, May 20, 1796. To Portugal, John Quincy Adams, May 30, 1796. To Netherlands, William Vans Murray, March 2, 1797. These were the only foreign countries to which missions had been established. A mission to Prussia was about this time created, and John Quincy Adams was appointed minister to that country, June 1, 1797 ; and his place in Portugal was supplied by the appointment of William Smith, of South Carolina. Mr. Smith was a member of the house, and had been, during the whole term of Gen. Washington's administration. He was a leading member of the administration party in that body.

The relations of this country with France were, as stated in the preceding chapter, in a critical condition ; our minister having been virtually expelled from that country, and new license having been given to spoliage on our commerce. A decree had been issued, authorizing the capture of neutral vessels having on board any productions of Great

Britain or her possessions—a decree in direct violation of the rights of neutral nations, and especially of the treaty between France and the United States, providing that “free ships should make free goods.” Numerous captures of American vessels were made under this decree, and most of the vessels were condemned. War being considered as not an improbable contingency, the president regarded the occasion as demanding a special session of the national legislature; and accordingly convened congress on the 15th of May, 1797.

Jonathan Dayton, of New Jersey, was reelected speaker of the house. There were at this time, in both bodies, majorities in favor of the administration, and of the plan and purpose of convening congress at that particular juncture. A number of important measures were adopted, both for the preservation of peace, and for providing the means of defense.

An act was passed to prevent American citizens from privateering against nations in amity with the United States; an act prohibiting the exportation of arms and ammunition, and for encouraging their importation; an act to provide for the further defense of the ports and harbors of the United States; an act authorizing a detachment from the militia of 80,000 men, to be in readiness to march at a moment's warning, and also authorizing state executives to accept independent corps; also an act providing a naval armament. This act empowered the president, if he should deem it expedient, to cause the manning and employing of the three frigates, the *United States*, the *Constitution*, and the *Constellation*.

To provide for the additional expenditures required by these measures of national defense, an act was passed for “laying duties on stamped vellum, parchment, and paper.” Some of the duties imposed by this act were as follows: For every piece of either of these articles on which was written or printed a certificate of naturalization, five dollars; for an attorney or solicitor's license to practice or a certificate of admission, ten dollars; papers containing the seal of the United States, four dollars; a certified copy of the same, two dollars; for receipts, notes, and other ordinary business instruments, from twenty-five cents to one dollar, varying according to the amount for which they were given: in short, all kinds of business paper, insurance policies, inventories, protests, &c., &c., were liable to this duty. Another act imposed an additional duty on salt imported; all drawbacks on salt exported to apply to the additional duty laid by the act; and a farther allowance was made on salt provisions exported.

Whatever may have been the justice or necessity of the duty on the stamped articles, the act was obnoxious to a large portion of the people. Both its title and its provisions resembled too much that memorable measure of 1765, which was so unsavory to the colonial fathers.

These war measures, however, were not intended to supersede farther attempts at negotiation. Congress being in session, the president nominated to the senate, Charles Cotesworth Pinckney, Elbridge Gerry, and John Marshall, as envoys plenipotentiary to the French republic; Mr. Pinckney being then in Holland. They met at Paris in October. They addressed a letter to the French minister of foreign affairs, in which they informed him of their appointment, and expressed their desire to wait on him at such an hour as he should please to appoint, to present their letters of credence. A verbal answer was returned naming the hour.

A novel mode of correspondence with the American ministers was adopted. Unofficial persons were employed for this purpose, who used the letters, X, Y, Z, instead of their names; as Mr. X, Mr. Y, Mr. Z. One of these individuals assured our ministers that Talleyrand had a great regard for America and her citizens, and desired a reconciliation; and that to accomplish it, he (X) would suggest a plan which Talleyrand would probably approve; viz., that certain passages in the president's message to congress, being offensive to some members of the directory, should be softened, and that this would be necessary previous to their reception; that a sum of money would be required for the pockets of the directory and ministers; and that the United States should accommodate the French government with a loan. X could not point out the exceptionable passages of the president's speech, nor the amount of the loan which would be required; but the docteur for the pocket was twelve hundred thousand livres—about fifty thousand pounds sterling. After some farther conference with X and Y, a second set of propositions was made. These propositions were wholly inadmissible; one of which was, that the government of the United States should declare that a certain decree of the directory did not contain any thing contrary to the treaty of 1778, and was not attended with any of the fatal consequences ascribed to it. Y at length remarked: "But, gentlemen, I will not disguise from you, that this satisfaction being made, the essential part of the treaty remains to be adjusted: *you must pay money; you must pay a great deal of money.*"

To these demands, our ministers could not accede. The proposition for a loan in any form was not within the limits of their instructions; and they proposed, that one of their number would forthwith embark for America to consult the government; provided the directory would suspend all further captures of American vessels, and all proceedings on those already captured, or which had not yet been disposed of. This was refused.

At one of the conferences our ministers were told by X, that we had

paid money to obtain peace with the Algerines, and with the Indians, and that it was doing no more to pay France for peace. To which they answered, that "when our government commenced a treaty with either Algiers or the Indian tribes, it was understood that money was to form the basis of the treaty, and was its essential article; . . . but that, in treating with France, our government had supposed, that a proposition, such as he spoke of, would, if made by us, give mortal offense." Our ministers, in their report of this interview, farther say: "He asked if our government did not know, that nothing was to be obtained here without money. We replied, that our government had not even suspected such a state of things. He appeared surprised at it, and said that there was not an American in Paris who could not have given that information. * * * He stated that Hamburg and other states of Europe were obliged to buy a peace; and that it would be equally for our interest to do so. Once more he spoke of the danger of a breach with France, and of her power, which nothing could resist. We told him it would be vain for us to deny her power, or the solicitude we felt to avoid a contest with it; . . . but that one object was still dearer to us than the friendship of France, which was our national independence; that America had taken a neutral station: she had a right to take it; no nation had a right to force us out of it; that to lend a sum of money to a belligerent power, abounding with every thing requisite for war but money, was to relinquish our neutrality, and take part in the war. To lend this money under the lash and coercion of France, was to relinquish the government of ourselves, and to submit to a foreign government imposed upon us by force; that we would make at least one manly struggle before we thus surrendered our national independence. * * * He said that France had lent us money during our revolutionary war, and only required that we should now exhibit the same friendship for her. We answered that the cases were very different; that America solicited a loan from France, and left her at liberty to refuse it; but that France demanded it of America, and left us no choice on the subject. . . . There was another difference in the cases; that the money was lent by France for great national and French objects: it was lent to maim a rival and an enemy whom she hated; that the money, if lent by America, would not be for any American objects, but to enable France to extend still further her conquests. The public and private advance of money was pressed and repressed in a variety of forms. At length X said he did not blame us; that our determination was certainly proper if we could keep it; but he showed decidedly his opinion to be that we could not keep it."

Through the agency of Z., an interview was arranged with Talleyrand,

the minister of foreign relations, at which Mr. Gerry only attended on the part of the United States; and at which Talleyrand presented the arret (decree) of the directory, in which the demand was again made of an explanation of parts of the president's speech to congress at the special session of the 16th of May. He was sensible difficulties would exist relative to this demand; "but that by our minister offering money, he thought he could prevent the effect of the arret." On being told by Z., at the request of Mr. Gerry, that the envoy had no such power, Talleyrand replied, that they could take such power on themselves, and proposed that they should make a loan. Mr. Gerry said, the uneasiness of the directory, caused by the president's speech, had no connection with the objects of the mission. Barras, in his speech to Mr. Monroe on his recall, had expressed himself in a manner displeasing to the government and citizens of the United States; but it was not considered by our government as a subject of dispute between the two nations. Having no instructions on this subject, they could make no explanations relating to it.

It was subsequently proposed that, if our government would pay, by way of fees, the sum of money demanded for private use, although the directory would not receive the ministers, they might remain at Paris, and would be received by Talleyrand, until one of them could go to America, and consult our government concerning the loan. This singular kind of diplomatic correspondence was continued until about the 1st of November, when it was agreed by our ministers to hold no more indirect intercourse with the government.

Under date of November 11, they addressed the minister of foreign affairs, expressing regret at the loss or suspension of friendly intercourse between the two republics; and the wish to restore it, and to discuss the complaints of both parties. No answer having been received, they transmitted to him, on the 17th of January, 1798, another letter, of great length, in which the whole controversy is reviewed. This review embraces all the old subjects of dispute between the two governments, among which were the course of neutrality adopted by Washington; the treaty agreement that "free ships should make free goods;" the annoyance of our commerce under the rigorous decrees of France, &c. Neither did this letter receive a formal answer. Another interview, however, was had with Talleyrand, (March 2,) at which the proposition of a loan was again the subject of conversation. Our ministers having stated that this measure would amount to a declaration of war on our part against Great Britain, and that they were expressly forbidden by their instructions to take such a step; Talleyrand argued that it would be no departure from neutrality to stipulate a loan *payable after the war*; and suggested that

the transaction might be done secretly. Having failed in this artifice, he conceived another for compassing his end ; which was, to acknowledge some of our claims for property taken from American citizens, and then let our government give a credit as for the payment, say for two years ; by which act we would consent to leave in the hands of France funds which might be used in the prosecution of the war. This proposition also was declined by our ministers, who argued that such a transaction would be no less a loan than the one before suggested.

On the 18th of March, our ministers received a *written* communication from Talleyrand in answer to theirs of January 17. The ministers replied at length. The directory having intimated a disposition to treat with Mr. Gerry alone, (who had been selected from the party which was said to be friendly to France,) his two colleagues, as has been stated, returned to the United States. Mr. Gerry's consenting to remain in France was considered highly improper.

On the 21st of June, 1798, president Adams transmitted to congress a letter from Mr. Gerry, with one from him to Talleyrand, and the reply of the latter. The president said in his accompanying message : " I presume that before this time he has received fresh instructions, (a copy of which accompanies this message,) to consent to no loans ; and therefore the negotiation may be considered at an end. I will never send another minister to France, without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation."

The 2d session of the 5th congress, (being its first regular session,) terminated the 16th of July, 1798, having assembled on the 13th of November, 1797. A large number of acts were passed during this long session. Among the most important were the following : An act to provide for an additional armament for the further protection of the trade of the United States, which authorized the president to equip an additional number of vessels, not exceeding twelve, nor carrying more than twenty-two guns each ; an act for the increase of the army ; an act for the protection of the commerce and coasts of the United States ; an act for the defense of the forts and harbors ; an act to lay and collect a direct tax of \$2,000,000, upon real estate and slaves. An act was also passed, to suspend commercial intercourse with France and her dependencies. By this act vessels of the United States were prohibited from going to the dominions of France, or from being employed in trade with or for persons residing therein, on penalty of the forfeiture of the vessel and cargo. And French vessels were not allowed to enter or remain in the United States, without a passport from the president, or except in case of distress. Another act was passed to authorize the defense of our

merchant vessels against French depredations. This act provided that the commanders and crews of American merchant vessels might oppose and defend them against search or seizure by the commanders and crews of armed vessels sailing under French colors.

At this session was established the department of the navy.

These preparations for war having been made, the public mind was soon directed to Gen. Washington, as the man to be placed at the head of the army; and the intention of the president to appoint him was communicated to him both by the president and the secretary of war, Mr. McHenry. In his answer to the secretary, after having animadverted upon the conduct of the French government, he says: "Under circumstances like these, accompanied by an actual invasion of our territory, it would be difficult for me, at any time, to remain an idle spectator under the plea of age or retirement. With sorrow, it is true, I should quit the shades of my peaceful abode, and the ease and happiness I now enjoy, to encounter anew the turmoils of war, to which, possibly, my strength and powers might be found incompetent. These, however, should not be stumbling-blocks in my own way." But before he could give a definitive answer, he wished to ascertain whether, after having announced his final retirement, public opinion would approve his reappearance upon the public theater; and whether it was the wish of the country that he should take the command. Also the army should be so appointed as to afford a well-grounded hope of its doing honor to the country and credit to the commander.

His reception of the letters of the president and secretary having been casually delayed, he had been nominated by the president to the chief command of all the armies, with the rank of lieutenant-general, and his appointment unanimously consented to by the senate, before his answer reached the seat of government. The appointment was accepted, on condition that he might himself select the officers for the high departments of the army. Presuming his wishes would be acceded to, he recommended Alexander Hamilton, for inspector-general, who was to be next in command; and for major-generals, Charles C. Pinckney and Henry Knox, or if either refused, Henry Lee. Others were named for brigadiers, adjutant-general, &c.

Wise and proper as these defensive measures were generally regarded, under the threatening aspect of affairs, they met with a determined and vigorous opposition. Both in and out of congress were men whose affection for France, the most flagrant insults and injuries were insufficient to weaken. In congress were vice-president Jefferson, Gallatin, Giles, Nicholas, Baldwin, Livingston, and others of no mean rank. The most conspicuous of those out of congress, were Madison and Monroe.

In March, 1798, resolutions were introduced into the house, declaring that a resort to war against France was, under existing circumstances, inexpedient; and that the arming of merchant vessels ought to be restricted; but they were in favor of fortifying the coast. In the debate on these resolutions, the opposition members took strong ground for peace measures. Their opposition to measures of defense has been imputed to the design of keeping the country in a condition which should compel the administration to accede to the propositions of France. The federal members contrasted the aversion of their opponents to a war with France, under the strongest provocations, with their eagerness to fight Great Britain, in 1794, for injuries far less aggravated.

The president had been charged with improperly withholding a part of the correspondence with our ministers in France. Although it had been deemed inexpedient to communicate certain parts of it, especially the instructions to our envoys, of which it was not proper that France should be informed, while negotiation was pending, the majority, notwithstanding, assented to a call for *all* the papers, which were promptly communicated by the president. These papers were read by the particular friends of France with feelings of disappointment and mortification. The unceremonious reception of our ministers, the manner of conducting the negotiation on the part of France, and the degrading terms upon which alone the directory would treat, placed that government in a very unfavorable light before the American people, and served in some degree to strengthen the administration.

The indiscriminate publication of Mr. Jefferson's correspondence since his death, has been deeply regretted by many of his warmest and most judicious friends, as tending to mar his well-earned popularity. The nature as well as the number of his private letters, shows him to have been a busy, though for the most part a secret actor in party affairs. A letter addressed to Mr. Madison on the appearance of these despatches, represents him as still disposed to fix the wrong upon his own government, and as hoping that the effect upon the public mind produced by their publication, will not be permanent. He says: "The first impressions with the people will be disagreeable, but the last and permanent one will be, that the speech in May is now the only obstacle to accommodation, and the real cause of war, if war takes place. And how much will be added to this by the speech in November, is yet to be learned. It is evident, however, on reflection, that these papers do not offer one motive the more for our going to war. Yet such is their effect on the mind of wavering characters, that I fear that, to wipe off the imputation of being French partisans, they will go over to the war measures so furiously pushed by the other party." The "speech in May" here

referred to, is the message to congress at the extra or special session which contained the language, to which, it will be recollected, the French directory took exceptions, and of which they demanded some explanation as one of the conditions on which they would treat. Information of the effect, upon that body, of the speech to congress in November, at the opening of the then present session, had not yet, it seems, (April 6,) been received.

The deep concern felt by Mr. Jefferson is farther manifest from a subsequent letter to Mr. Madison, urging him to assist in defending the opposition from the effects of the publication of the dispatches. He wrote : " The public mind appears still in a state of astonishment. There never was a moment in which the aid of an able pen was so important to place things in their just attitude. On this depends the inchoate movement in the eastern mind, and the fate of the elections in that quarter, now beginning, and to continue through the summer. I would not propose to you such a task on any ordinary occasion ; but be assured that a well-digested analysis of these papers would now decide the future turn of things, which are at this moment on the career." He had previously written to the same gentleman : " You will see in Fenno (publisher of the United States Gazette) two numbers of a paper signed Marcellus. They promise much mischief, and are ascribed, without any difference of opinion, to Hamilton. You must, my dear sir, take up your pen against this champion. You know the ingenuity of his talents, and there is not a person but yourself who can foil him. For Heaven's sake, then, take up your pen, and do not desert the public cause altogether."

By the aid derived from the publication of the papers, the bills for the national defense yet pending were easily passed, the anti-war resolutions having been dropped. The popularity of the administration was rapidly increasing. The president received from all directions, and from numerous bodies and public assemblages, addresses approving his policy. Among the occurrences at Philadelphia, we give the following, as narrated by Hildreth : " Besides an address from five thousand of the citizens, presented to the president, the young men adopted a separate address of their own, and went in a body to carry it, many of them wearing the black cockade, the same which had been worn in the American army during the war of independence. This was done by way of defiance and response to the tri-colored cockade worn by all Frenchmen since Adet's famous proclamation, and by not a few American citizens also, even by some companies of militia, who wished to exhibit, by this outward sign, their extreme devotion to the French republic. Hence the origin of the term, ' Black Cockade Federalist,' which became ultimately an epithet of bitter party reproach. Such was the warmth of party

feeling, that several who wore the new emblem became the objects of violent personal assault. But the zeal for mounting was a good deal increased by the rage it inspired in the more violent democrats—a term restricted at this time to the warm partisans of France, and as yet chiefly employed by the federalists, along with the term Jacobin, as an epithet of reproach. The song of ‘Hail, Columbia!’ written by the younger Hopkinson, had, under the excitement of the moment, a tremendous run; and, though totally destitute of poetic merit, is still kept in existence by the force of patriotic sentiment. ‘Adams and Liberty,’ written by Paine, of Boston, the son of another signer of the declaration of independence, though now almost forgotten, enjoyed, like ‘Hail, Columbia!’ an immense popularity; both songs being sung at the theaters and elsewhere with rapturous encores.”

An act was passed at this session “for the relief of sick and disabled seamen.” This law required the master or owners of all vessels of the United States, arriving from a foreign port, to pay to the collector at the rate of twenty cents a month for every seaman employed on board such vessels; which sum he was authorized to retain out of their wages. The money thus collected was to be applied to the temporary relief of sick and disabled seamen.

An act was also passed “for an amicable settlement of limits with the state of Georgia, and authorizing the establishment of a government in the Mississippi territory.” Georgia, by virtue of the cession to her by South Carolina, claimed the whole territory east of the Mississippi river, and south of Tennessee. To the western portion of the same, the United States opposed a counter claim founded upon the treaty of 1783, by which Great Britain ceded it to the United States, and upon the subsequent treaty with Spain.

The act provided a joint commission on the part of the general government and the state of Georgia, to adjust the conflicting claims to the territory west of the Chattahoochie river. All lands which should be ascertained to belong to the United States were to be disposed of, and the proceeds thereof applied to the payment of the public debt, as in the case of the territory north-west of the Ohio. And all the tract of country bounded by the Chattahoochie on the east and the Mississippi on the west; and on the north by a line from the mouth of the Yazoo east to the Chattahoochie, and on the south by the 31st degree of north latitude, was to constitute one district to be called the Mississippi Territory, which might thereafter, at the discretion of congress, be divided into two districts with separate territorial governments. The government of the territory was to be the same as that established in the north-western territory, except as to the restriction of slavery. The im-

portation, however, of slaves into the territory from beyond the limits of the United States, was prohibited. The act contained a provision, that the establishment of this government should not impair the rights of Georgia or any person to the jurisdiction or the soil. Most of the measures of the administration hitherto had been popular; and but for two certain acts passed at this session, ending in the summer of 1798, it is not improbable that the federal party would have acquired a degree of strength that would have been irresistible, and have secured its permanent ascendancy. The acts referred to are, "An act concerning aliens," and "An act in addition to the act, entitled, 'An act for the punishment of certain crimes against the United States.'" No one would suppose, from the mere titles of these acts, that they were the famed "alien and sedition laws" which have given to the year 1798 such political notoriety, and which contributed more, probably, than any other cause, to the overthrow of the federal party in 1800. As many readers are presumed to be unacquainted with the provisions of these laws which have incurred so much popular odium, an abstract of them is here given.

Of the first mentioned of these two acts, the 1st section authorized the president to order all such aliens as he should judge dangerous to the peace and safety of the United States, or should have reasonable grounds to suspect were concerned in any treasonable or secret machinations against the government thereof, to depart out of the country within a given time, to be expressed in the order. Any alien so ordered to depart who should, after the time limited for his departure, be found at large without a license from the president to reside in the United States, was liable to imprisonment not exceeding three years, and was never to be admitted to become a citizen. On satisfactory proof being given by an alien, that no injury or danger would arise from his residing here, the president might grant him a license to remain for such time and at such place as he should designate. The president might also require a bond with sureties for his good behavior.

Section 2, authorized the president, whenever he deemed it necessary for the public safety, to remove out of the country all persons in prison in pursuance of the act, and all who had been ordered to depart, and remained without license. And on their return, they might be imprisoned so long as, in the opinion of the president, the public safety might require.

Section 3, required masters of vessels coming into ports of the United States, to report all aliens on board, the country from which they came, and the nation to which they owed allegiance, their occupation, a description of their persons, &c., under a penalty of \$300.

Section 4, gave to the circuit and district courts of the United States cognizance of offenses against the act.

Section 5, secured to aliens the right of disposing of their property.

Section 6, limited the act to the term of two years from its passage.

All courts of the United States and of the several states, having criminal jurisdiction, were authorized, upon complaint against aliens or alien enemies at large, to the danger of the public peace or safety, and contrary to the intent of the proclamation or other regulations established by the president, to cause them to be apprehended and brought before any such court, judge, or justice; and after a full examination and hearing, and for sufficient cause appearing, to order their removal, or to require sureties for their good behavior, or to restrain, imprison, or otherwise secure them, until the order should be performed. Marshals of the districts were to provide for their removal, and to execute the order for their apprehension, under a warrant of the president, or of a judge or justice.

The act relating to "the punishment of certain crimes against the United States," or, as it is called, the "sedition law," provided that any persons unlawfully combining or conspiring together, to oppose any measure of the government of the United States, or any of its laws, or to intimidate or prevent any officer under that government from undertaking or performing his duty; and any persons, with such intent, counseling or attempting to procure any insurrection, riot, or unlawful combination, were to be deemed guilty of a high misdemeanor, and punishable by a fine not exceeding \$5,000, and by imprisonment not less than six months, nor exceeding five years; and, at the discretion of the court, they might also be held to find sureties for their good behavior.

But the provision deemed most objectionable, was the second section, which declared that any person who should write, print, utter or publish, or aid in writing, printing, uttering or publishing, any false, scandalous, or malicious writing against the government, congress, or the president of the United States, with intent to defame them, or to bring them into disrepute, or to stir up sedition within the United States, or to excite any unlawful combinations for opposing or resisting any law of the United States, or any act of the president done in pursuance of any such law, or to resist or defeat any such law, or to aid or abet any hostile designs of any foreign nation against the United States, their people or government, should be liable to be fined not exceeding \$2,000, and imprisoned not exceeding two years.

The act farther provided, that any person prosecuted for writing or publishing such libel, might, in his defense, give in evidence the truth of the matter contained in the publication charged as a libel; and the jury had the right to determine the law and the fact, under the direction of the court, as in other cases. This was an essentially mitigating provision

of this obnoxious law. The English law of libel was at that time a part of the common law of this country. The defendant in a libel suit was not permitted to justify by proving the truth of the statement charged as libelous. Hence the common expression: "The greater the truth, the greater the libel." But this law allowed no conviction except in cases in which the defendant failed to furnish evidence of the truth of his statement. This provision, now incorporated into the laws or constitutions of all the states, had then been adopted only in the states of Pennsylvania, Delaware, and Vermont.

The act was to continue in force until the 3d of March, 1801, and no longer.

These laws were intended to counteract the schemes of the unprincipled French directory, whose emissaries in this country abused the freedom of the press by defaming the administration, and exciting the opposition of the people to the government and laws of the union. They did not, however, accord with the disposition and liberal views of the American people. They were of doubtful expediency, even under the circumstances that gave rise to them. Much less toleration would they find at the present day. Yet when it is considered that these laws had the concurrence of a majority of both houses of congress and the executive, and were approved by Washington, Patrick Henry, and other wise and good men, it is to be presumed that there were some cogent reasons for their enactment. The seditious conduct of Genet alone furnished a powerful inducement for the adoption of some measure of this kind. But there were at that time many thousands of Frenchmen in this country combined in organized associations, which were believed to be dangerous to the peace of the United States; and an equal or greater number of British subjects whose residence in this country was deemed unsafe at that particular juncture.

Justice to the many good and patriotic men who approved these laws, requires us to add, that what were to be punished under the sedition act as offenses, were already punishable offenses at common law, in state courts; and the federal courts were presumed to have common law jurisdiction of the same offenses. Besides, similar laws had been enacted in some of the states, during the revolution, when unrestricted discussion was not at all times deemed compatible with national safety.

These laws gave birth to the celebrated Virginia and Kentucky resolutions of 1798 and 1799, and to the doctrine of *nullification*. Astute politicians, as were the leaders of the opposition, readily saw that these laws might be turned into effective weapons against the administration, and the plan was adopted of obtaining the coöperation and influence of the state legislatures. At the request of Mr. Jefferson, Mr. Madison,

then a member of the Virginia legislature, introduced the resolutions adopted the 21st of December, 1798. These resolutions declared, (1.) That the constitution of the United States was a compact to which the states were parties, granting limited powers of government. (2.) That in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the compact, the states had the right, and were in duty bound, to *interpose* for arresting the progress of the evils, and for maintaining, within their respective limits, the authorities, rights and liberties pertaining to them. (3.) That the alien and sedition laws were palpable and alarming infractions of the constitution. (4.) That the state of Virginia, having by its convention, which ratified the federal constitution, expressly declared, that, among other essential rights, the liberty of conscience and the press could not be canceled, abridged, restrained, or modified by any authority of the United States; and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with the other states recommended an amendment for that purpose, which amendment was in due time annexed to the constitution; it would mark a reproachful inconsistency and criminal degeneracy, if an indifference were now shown to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which might be fatal to the other. (5.) That the state of Virginia declared the alien and sedition laws UNCONSTITUTIONAL; solemnly appealed to the like dispositions in the other states, in confidence that they would concur with her in that declaration; and that the necessary and proper measures would be taken by each, for coöperating with her, in maintaining unimpaired, the authorities, rights, and liberties, reserved to the states respectively, or to the people. (6.) That the governor should be desired to transmit a copy of each of these resolutions to the executive authority of each of the other states, with a request that they should be communicated to the respective state legislatures, and that a copy should be furnished to each of the senators and representatives of Virginia in congress.

These resolutions, however, did not go to the same extent as those drawn up by Mr. Jefferson himself, to be introduced by his friends into the legislature of Kentucky, and which were passed in November, more than one month earlier than those of Virginia. These resolutions declared that the union was a compact between the states *as states*, instead of the *people of the several states*, as held and frequently expressed by Madison since that time, by Jackson in his celebrated anti-nullification proclamation of 1832, and almost all other statesmen of note. They farther declared, "that, as in other cases of compact between *parties* having no common judge, each party has an equal right to judge for

itself, as well of infractions, as of the mode and measure of redress ;" thus denying the common doctrine, which accords to the supreme court the ultimate right to judge whether a law is constitutional or otherwise : and, in conformity with these views of state rights, they declared the alien and sedition acts to be "*not law, but altogether void, and of no force.*" And they farther made the broad assertion, "that in cases of an abuse of the delegated powers, the members of the general government being chosen by the people, a change by the people would be the constitutional remedy ; but where powers are assumed which have not been delegated, *a nullification of the act is the right remedy* : and that every state has a natural right, in cases not within the compact, *to nullify of their own authority*, all assumptions of power, by others within their limits."

These resolutions also proposed a "committee of conference and correspondence," to be appointed by each state legislature, to obtain the concurrence of the co-states "in declaring these acts void and of no force, and each to take measures of its own for providing that neither these acts, nor any other of the general government, not plainly and intentionally authorized by the constitution, shall be exercised within their respective territories." The resolutions containing this last proposition being thought to go too far, they were so modified as to require their senators and representatives to lay the resolutions before congress, and to use their best endeavors to procure a repeal of the obnoxious acts at the next session ; and they also requested from other state legislatures the expression of their opinion in regard to these laws, and their concurrence in declaring them void, and in requesting their repeal by congress.

A full discussion of the question of nullification, will be found in the history of Jackson's administration, in subsequent chapters.

Neither the Virginia resolutions, though accompanied by an address to the people in support of them, written by Mr. Madison, nor those of Kentucky, met with a favorable response in any other state. By the legislatures of the New England states, New York, and Delaware, they were expressly disapproved. They served, however, in a great degree, the purpose of their authors.

The legislatures of Virginia and Kentucky, at their next sessions, replied to the answers of the state legislatures, and, in these replies, reasserted the doctrines of their resolutions. The reply of the legislature of Virginia consisted of a very able report prepared by Mr. Madison, concluding with the following resolution : "That the general assembly, having carefully and respectfully attended to the proceedings of a number of the states, in answer to the resolutions of December 21, 1798, and having accurately and fully reëxamined and reconsidered the latter,

find it to be their indispensable duty to adhere to the same, as founded in truth, as consonant with the constitution, and as conducive to its preservation; and more especially to be their duty to renew, as they do hereby renew, their protests against the alien and sedition acts, as palpable and alarming infractions of the constitution." The report and resolution were adopted in February, 1800. A few months thereafter, (June 25,) the alien law expired by its own limitation, and the sedition act on the 4th of March, 1801.

From an address on the death of Mr. Madison, written by John Quincy Adams, in 1836, by request of the two houses of congress, we give the following extracts, relating to the alien and sedition laws, and to the resolutions whose history is sketched above :

"The agency of Mr. Jefferson in originating the measures of both the state legislatures, was at the time profoundly secret. It has been made known since his decease; but, in estimating the weight of the objections against the two laws on sound principles, as well of morals as of politics, the fact as well as the manner of that agency is observable. The situation which he then held, and that to which he ascended by its operation, are considerations not to be overlooked in fixing the deliberate judgment of posterity upon the whole transaction. Mr. Madison's motives for the part which he acted in the drama, are not liable to the same scrutiny; nor did his public station at the time, nor the principles which he asserted in the management of the controversy, nor the measures which he proposed, recommended and accomplished, subject his posthumous reputation and character to the same animadversions. Standing here as the sincere and faithful organ of the sentiments of my fellow-citizens to honor a great and illustrious benefactor of his country, it would be as foreign from the honest and deliberate judgment of my soul, as from the sense of my duties on this occasion, to profess my assent to the reasoning of his report, or my acquiescence in the application of its unquestionable principles to the two acts of congressional legislation, which it arraigns. That because the states of this union, as well as their people, are parties to the constitutional compact of the federal government, therefore the state legislatures have the right to judge of infractions of the constitution by the organized government of the whole, and to declare acts of congress unconstitutional, is as abhorrent to the conclusions of my judgment, as to the feelings of my heart: but holding the converse of those propositions with a conviction as firm as an article of religious faith, I too clearly see to admit of denial, that minds of the highest order of intellect, and hearts of the purest integrity of purpose, have been brought to different conclusions.

"If Jefferson and Madison deemed the alien and sedition acts plain

and palpable infractions of the constitution, Washington and Patrick Henry held them to be good and wholesome laws. These opinions were perhaps all formed under excitements and prepossessions which detract from the weight of the highest authority. The alien act was passed under feelings of honest indignation at the audacity with which foreign emissaries were practicing, within the bosom of the country, upon the passions of the people against their own government. The sedition act was intended as a curb upon the publication of malicious and incendiary slander upon the president or the two houses of congress, or either of them. But they were restrictive upon the personal liberty of foreign emissaries, and upon the political licentiousness of the press. The alien act produced its effect by its mere enactment, in the departure from the country of the most obnoxious foreigners, and the power conferred by it upon the president was never exercised. The prosecutions under the sedition act did but aggravate the evil which they were intended to repress. Without believing that either of those laws was an infraction of the constitution, it may be admitted without disparagement to the authority of Washington and Henry, or of the congress which passed the acts, that they were not good and wholesome laws, inasmuch as they were not suited to the temper of the people."

Among the persons prosecuted under the sedition act was Matthew Lyon, a member of congress from the western part of Vermont. In a letter published in a Vermont paper, he had used the following language: "Whenever I shall, on the part of the executive, see every consideration of the public welfare swallowed up in a continual grasp for power; in an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice; when I shall behold men of merit daily turned out of office, for no other cause but independency of sentiment; when I shall see men of firmness, years, abilities, and experience, discarded in their applications for office, for fear they possess that independence, and men of meanness preferred for the ease with which they take up and advocate opinions, the consequence of which they know but little of; when I shall see the sacred name of religion employed as a state engine to make men hate and persecute one another, I shall not be their humble advocate." A second count in the indictment charged him with making use of a letter of Joel Barlow, then in France in some diplomatic agency, written to a friend, then a member of congress, Abraham Baldwin, of Georgia. Barlow was a devoted friend of France, and a bitter opponent of the federal party; and his letters to this country very severely berated the administration for non-compliance with the wishes of the French government. In this letter he indulged in strong censures of the speech of the president to congress, and said, "we wondered

that the answer of both houses had not been an order to send him to a mad-house : instead of this, the senate have echoed the speech with more servility than ever George III. experienced from either house of parliament." A third count in the indictment was for publishing and aiding in publishing the Barlow letter.

Lyon was convicted, and sentenced to imprisonment for four months, and to the payment of a fine of \$1,000, a part of which was remitted in consequence of his pecuniary embarrassments. A petition said to have been signed by 3,000 republicans of Vermont was presented to the president for his liberation, which the president refused, unless Lyon himself should sign the petition. Disinclined to submission, he was compelled to suffer durance for the full term. During the pendency of the suit, he was reëlected to congress. After his discharge from prison, he went to Philadelphia, and served out the remainder of his first term in congress.

Assurances were given to Lyon, that when the republicans should obtain the ascendancy in congress, he should be compensated for his sufferings. But for various causes, no relief had been granted, when, in 1818, he again petitioned congress, being then a resident of Kentucky, and was again unsuccessful. In 1833, many years after his death, a law was passed for refunding to his heirs the amount of the fine levied upon him by the sedition law.

CHAPTER XIII.

DIFFICULTIES WITH FRANCE.—TREATY NEGOTIATED.—DIVISION OF THE
FEDERALISTS.—PRESIDENTIAL ELECTION.

THE 5th congress commenced its 3d session on 'the 3d day of December, 1798. The president, in his annual speech to congress, said the information received from France since the close of the last session, would be made the subject of a future communication ; from which it would appear that the attempt to adjust the differences with that power had failed. He proceeded : " You will at the same time perceive, that the French government appears solicitous to impress the opinion, that it is averse to a rupture with this country, and that it has in a qualified manner declared itself willing to receive a minister from the United States for the purpose of restoring a good understanding. It is unfortunate

for professions of this kind, that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a minister from the United States should possess, and that, while France is asserting the existence of a disposition on her part to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation, that the decree of the directory alleged to be intended to restrain the depredations of French cruisers on our commerce, has not given, and cannot give, any relief. It enjoins them to conform to all the laws of France relative to cruising and prizes, while these laws are themselves the sources of the depredation of which we have so long, so justly, and so fruitlessly complained.

“The law of France, enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes, if any portion of the latter are of British fabric or produce, although the entire property belong to neutrals, instead of being rescinded, has lately received a confirmation by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force, those nations can see in the French government only a power regardless of their essential rights, of their independence and sovereignty; and if they possess the means, they can reconcile nothing with their interest and honor but a firm resistance.”

The president observed, farther, that we had no reason to regret the adoption of defensive measures; that there had been nothing in the conduct of France to induce us to change or relax them; and that “an efficient preparation for war could alone insure peace.” And in reference to a new mission, he said: “To send another minister without more determinate assurances that he would be received, would be an act of humiliation to which the United States ought not to submit. It must therefore be left with France, (if she is indeed desirous of accommodation,) to take the requisite steps.”

To the speech of the president, both houses returned answers of approval, which were adopted without any material opposition.

Although no war had been declared on the part of either government, several engagements had taken place on the ocean, and a large amount of property of American citizens was captured by French cruisers. There was no occasion, however, of calling out the army. Induced, probably, by the war measures which had been adopted by congress, France indicated a willingness to relinquish her demand as a preliminary to negotiation, and to treat on reasonable terms; and in February, 1799, the

president again appointed, with the advice and consent of the senate, three envoys extraordinary and ministers plenipotentiary to the French republic. The gentlemen selected were Oliver Ellsworth, (chief justice of the United States,) Patrick Henry, and William Vans Murray, then minister resident in the Netherlands. Mr. Henry, though approving the measures of the administration, declined the appointment, assigning as the only reason, "nothing short of absolute necessity." William R. Davie, formerly governor of North Carolina, was subsequently appointed in the place of Mr. Henry.

The president soon found himself in a serious difficulty. He had, as has been observed, on communicating to congress, at the commencement of the session, the unsuccessful termination of the negotiation, declared that he would never send another minister to France without assurances that he would be duly received and respected. The course pursued on the French question had been approved by his own party and by a large portion of his opponents. His friends, therefore, did not expect to see so ready a compliance, on his part, with the wishes of the French directory. The surprise was probably heightened by the fact, that congress had just passed several bills in favor of additional measures of defense, and one for continuing the non-intercourse act for a year.

Pichon, secretary of the French legation at the Hague, had been directed to communicate to Mr. Murray, American minister at that place, a willingness, on the part of the directory, to give a respectful reception to a minister from our government. Intimations having been given that Mr. Murray would be acceptable to the French government, that gentleman was nominated. Not regarding the mere intimations of that government of a disposition to renew the negotiation sufficient to justify the appointment of a mission, the committee of the senate to which the nomination had been referred, attempted to dissuade the president from the prosecution of his design; and having intimated an intention to report against the nomination, the president sent in the names of Ellsworth and Henry, who were to be added to the mission, but were not to leave until more direct assurances should be given by France that they would be duly received. Nor was Mr. Murray to proceed to France until he should have received such assurance.

Of the members of the cabinet, Messrs. Pickering, Wolcott and M'Henry, secretaries of state, of the treasury, and of war, were known by the president to be decidedly opposed to renewing the mission under existing circumstances. The nominations were therefore made without consulting his cabinet or any of his friends. This slight put upon his constitutional advisers produced a breach between himself and a majority of his cabinet which was never repaired. Indeed, his course en-

tirely estranged a large number of his friends, who had for some time been disaffected toward him; among whom were Gen. Hamilton and Gouverneur Morris, and other men of distinction and influence. They professed to doubt the sincerity of the French government; and they considered it derogatory to the national honor to accept an offer to negotiate, until the decrees against our commerce should be repealed. Another ground of objection, it has been suspected, was the apprehension that the renewal of negotiations under existing circumstances and without a direct proposal on the part of France to treat, would have an adverse effect upon the popularity of the party. But the president was averse to war. However cordially it might have been supported by his party, it would have encountered the opposition of the leaders, and perhaps of the mass of the party opposed to him. Besides, the large increase of taxation which it would require, he apprehended, might not be patiently borne. These were doubtless among the motives which induced the adoption of a more pacific policy.

Murray having, according to instructions, informed the French government that the departure of Ellsworth and Davie would be delayed until positive assurances should have been given through the French minister of foreign affairs, that they would be duly received, Talleyrand promptly returned an answer from the executive directory, conveying "the frank and explicit assurance that it would receive the envoys of the United States in the official character with which they were invested; that they should enjoy all the prerogatives which are attached to it by the law of nations, and that one or more ministers should be duly authorized to treat with them." The very compliant and anxious minister added his "sincere regret, that Mr. Murray's two colleagues awaited this answer at so great a distance!"

On the receipt of these assurances, the president, against the wishes of the majority of his cabinet, ordered the envoys to prepare for their departure, and directed the secretary of state to make a draft of instructions to them. By these instructions, the envoys were to demand, as indispensable requisites, compensation for all losses and damages sustained by our citizens from illegal captures or condemnations of their vessels and other property, to be settled by a board appointed for that purpose; the guaranties to France by the treaties of 1778, of her West India and other American possessions, and from which the United States considered themselves released by the aggressions of France, were not to be renewed; no aid or loan was to be promised; no engagement was to be made, inconsistent with the obligations of any prior treaty; and, as it respected our treaty with Great Britain, stipulations of the 25th article thereof must not be interfered with. By this article, the contracting

parties were to allow the ships of war or privateers of each other to carry whithersoever they pleased the ships and goods taken from their enemies, and to enter each other's ports without being detained or seized. Nor was shelter or refuge to be given in their ports to such as had made prize upon the subjects or citizens of either party, unless forced by stress of weather, or danger of the sea, to enter; and then they were to depart as soon as possible. Nor might either party permit the ships or goods of the other to be taken within cannon shot of the coast. And by this same article of the Jay treaty, Great Britain and the United States had agreed to make while at peace, no treaties with other nations inconsistent with this article and that preceding, which made it unlawful for the privateers of the enemies of either party to arm and equip their ships or sell their prizes in the ports of the other. The law of France requiring the confiscation of neutral vessels having on board goods coming from England or her possessions, must also be repealed. The envoys were also instructed, if there should be, on the part of France, any unreasonable delay in commencing the negotiation, to relinquish their mission, demand their passports, and leave the country; and, having once resolved to terminate the mission, they were not to resume it, whatever fresh overtures or assurances might be tendered. It was expected that they would conclude the negotiation in time to embark for home by the 1st of April, that, on their return, congress might be in session to take such measures as should be required by the result of the mission.

It was now near the middle of September, when intelligence was received of another revolution in France, caused by the reverses which had befallen her armies, and which were such as to excite apprehensions for the safety of the republic. The whole directory, with one exception, had been changed; and it was doubtful whether our envoys would be received by the new directors. In this aspect of affairs, the cabinet unanimously advised the president to suspend the mission. After a brief consideration, however, and again without any special consultation with his cabinet, and in the exercise of that spirit of independence for which he was distinguished, the president ordered the speedy embarkation of the envoys. By this act, the president rendered the separation between himself and the majority of his cabinet complete, and aggravated the disaffection of many of his party into open and avowed opposition.

Ill-advised as was the course of the president, considered as designed to promote his personal advantage, it resulted in an amicable adjustment of difficulties—an event which could hardly have been expected if he had followed the counsels of his more belligerent friends.

Messrs. Ellsworth and Davie, the new envoys to France, had sailed from Newport, Rhode Island, on the 3rd of November, 1793, by way of

Lisbon, where they arrived the 27th, and were informed of the revolution at Paris, by which Napoleon was placed at the head of the French government as first consul. Deeming it expedient to await further information before entering France, and being further detained by contrary winds, they did not leave Lisbon until the 21st of December, when they sailed for L'Orient; but on account of a long succession of storms, and the consequent impossibility of reaching that port, they put into Corunna, on the 16th of January, 1800. On the next day they addressed a letter to Talleyrand, who was continued minister of foreign affairs, expressing the hope that their letter of credence being addressed to the directory, would be no objection to their reception; and that, if the government should view the matter as they did, passports would be immediately sent to them, and one to Mr. Murray at the Hague. Talleyrand said in his answer, that the envoys had been "expected with impatience, and would be received with warmth," notwithstanding the form of their letters of credence; and passports were accordingly sent. They reached Paris the 2d of March, and found Mr. Murray, who had arrived the day before. The envoys were duly received; and three plenipotentiaries, Joseph Bonaparte, Fleurieu, and Roederer, were appointed to negotiate with them.

The negotiation was commenced with due promptitude, and continued until the 30th of September, when a treaty was concluded. A detailed history of the negotiation can not here be given. There was great difficulty in agreeing upon the terms of a treaty. The French ministers were unwilling to concede our claim for indemnity, or to consent to relinquish the old treaties. It will be recollected that, according to the instructions to our ministers, the old treaties were not to be renewed. They had been declared void by congress, having been dissolved by her aggressions upon our commerce; and being so considered, our government had, in article 25th of the treaty with Great Britain negotiated by Mr. Jay, agreed, that the ships of war and privateers of both parties should have permission to enter each other's ports with prizes without being subject to seizure or detention. And no shelter or refuge was to be given in their ports to such as had made prizes upon the citizens or subjects of either of the parties. A revival of the old treaties with France, would restore to her the priority of rights therein stipulated, in contravention of our engagements with Great Britain, which, however, *might* cease within two years after the close of the then existing war; but *would* cease, in any event, at the expiration of twelve years after the ratification of the treaty. Our ministers being bound to observe our engagements with Great Britain, and the ministers of France being unwilling to admit the nullity of the old treaty of 1778, which would exclude French privateers and prizes from the ports of the United States, an arrangement seemed impracticable.

France, having no money, was unwilling to pay indemnities; and if, as maintained by the American ministers, the old treaties were not in force, we had no lawful claim for indemnity. To have renewed the old treaty would have compelled us, if called on, to furnish her succors in time of war, or, if not furnished, our refusal would be made a pretext for her to withhold the indemnities. The French ministers at length proposed to stipulate for mutual indemnities, with a recognition on our part of the force of the old treaties; or to treat anew on reciprocal terms, without indemnities. As neither proposition could be accepted consistently with their instructions; our ministers must either quit France, leaving the United States in a serious difficulty, or else propose a temporary arrangement, reserving for definitive adjustment those points which could not then be settled.

To the adoption of some arrangement, there were several strong inducements. Our position toward France was little less than a state of war; while the successful operations of Bonaparte seemed to indicate a general peace in Europe; an event which would leave us alone in a contest with that power: Or, if the war should continue, an arrangement was necessary in order to relieve our commerce from exposure to the depredations of the French. Another object was to save a large amount of captured property not yet condemned: there being more than forty ships and cargoes, then pending for decision before the French council of prizes.

A treaty was at length concluded the 30th of September, 1800. Its principal provisions were the following: The binding force of the old treaties, and the mutual claims for indemnities, were reserved for future negotiation. All public ships, and all property captured by either party, and not yet condemned, were to be restored. All government and individual debts due were to be paid. The vessels of either party were to enjoy in the ports of the other equal privileges with those of the most favored nation. The provision of the old treaty that free ships should make free goods, was retained. Provision was also made for the future security of American commerce.

The article which allowed French privateers and prizes equal privileges with those of the most favored nation, was inserted by the French ministers after repeated declarations from our ministers that, agreeably to the rule of construction settled by the law of nations, this stipulation could have no effect as against the British treaty, unless derived from the former treaties, which, it was expressly agreed, were to be for the time without operation. This article was deemed of less consequence, as it was presumed the United States would soon be able to refuse the privateers and prizes of any nation an asylum beyond what the rights of humanity required.

Apprehending, however, that the government of Great Britain might regard this provision as contravening the stipulation in our treaty with that power, allowing no other nation the same privileges, Mr. King, our minister at London, presented the matter to that government, and was told by lord Grenville that they saw in it no cause of complaint.

Congress met this year, (November 17, 1800,) at Washington, whither the seat of government had been removed during the preceding summer. Early in December, Mr. Davie returned with the new treaty, which was a few days afterward, (December 15,) laid before the senate. It met the decided disapprobation of the federal senators opposed to Mr. Adams and the new mission, because it contained no provision for the payment of indemnities, and for the renunciation of the old treaties; and the result of the opposition was the adoption of an article limiting the term of the convention to eight years, as a substitute for that which referred the question of indemnity and the old treaties to future negotiation. The president, though he considered the alteration as being for the worse, ratified it, and appointed James A. Bayard, of Delaware, as minister, to carry the treaty with the amendment to France for ratification by that government. Mr. Bayard declining the appointment, and the presidential term of Mr. Adams being near its close, he left the matter to his successor.

The event showed the mistake of the senate. When the amended treaty was submitted to Bonaparte, he added a proviso, that the expunging of the article relating to indemnity and old treaties, should be considered as a relinquishment of claims for indemnity. With this additional amendment it was ratified by our government. Thus did France succeed in obtaining what she had proposed to our ministers—a *new treaty without indemnities*.

The press appears to have been quite as much relied on as an instrument of party warfare during these early political struggles as it is at the present day. And, judging from the specimens which the history of that period has furnished us of the character of the political press, as well as of that of political parties, we may conclude that it has undergone no change for the worse. Several papers, during the two first administrations, were conducted by foreigners, who, whatever may have been the merit of their political opinions, were very far from doing honor to the editorial profession. And some of American birth could scarcely boast of a higher standing. Freneau's National Gazette had "died out," and the Aurora, for several years its coadjutor in the democratic cause, was now the accredited organ of the opposition in Philadelphia; Benjamin Franklin Bache, its former editor, grandson of Benjamin Franklin, had fallen a victim to the yellow fever which visited that city in 1797; and

had been succeeded, as editor, by James Duane, father of William J Duane, Gen. Jackson's disobedient secretary of the treasury, in 1834. He was born in this country of Irish parents, and went, when young, to his friends in Ireland, where he learned the printer's trade. He subsequently established an English newspaper in Calcutta, (India.) Having transcended the narrow bounds prescribed by British laws in those days to the liberty of the press in that quarter, his establishment was seized, and he was compelled to return to England, whence he emigrated to this country. His hatred to Great Britain and British laws fitted him for the editorship of an opposition paper. Fenno, of the United States Gazette, had also died of the same disease, and about the same time as Bache, and his paper passed into the hands of his son.

One of the political writers of that day who attained to considerable notoriety, was Thomas Callender, who had left Scotland to avoid prosecution for the publication of a libelous pamphlet. He is reputed as having been a man of intemperate and other immoral habits. His writings in this country appeared for a time in pamphlets and magazines, of which were the "American Annual Register," and "The prospect before us." He published also a paper at Richmond, called "The Examiner." He is represented to have been a powerful, though unscrupulous assailant of the administration, and was probably an effective auxiliary in effecting its overthrow. By certain statements in the last mentioned of the above named publications, he subjected himself to a prosecution under the sedition law, for libel against the president, for which he was sentenced to imprisonment for nine months, and to the payment of a fine of \$200: and he was required also to give securities for his good behavior for two years. By the aid of his friends, the fine had been paid: and the term of his imprisonment had expired almost simultaneously with Mr. Jefferson's coming into office, who hastened to grant him a pardon, which, it was held, entitled him to a remission of the fine; and the president accordingly ordered it to be remitted. Strange as it may seem, this man was two years thereafter found associated with the federalists in attacks upon his benefactor, Mr. Jefferson, who had rejected his application for the office of postmaster at Richmond, and whom Callender now publicly charged with having assisted him in the publication of the paper in which the libels for which he had been prosecuted were published. In proof of the charge he published letters from Mr. Jefferson, which disclosed the fact of his having, by the contribution of money and otherwise, aided the publication of the "Prospect before us."

As a set-off to these foreign writers in support of the opposition, the federalists had in their service the celebrated William Cobbett, an Englishman, who came to this country in 1792, and who, after having, under

the formidable name of Peter Porcupine, written several pamphlets in favor of the late treaty with Great Britain, was now sending out his pointed missiles at the democrats through "Porcupine's Gazette," a daily paper in Philadelphia, established by himself. He was a most caustic and effective writer; but his influence was much impaired by his enthusiastic regard for his native country and its institutions, which often brought him into conflict with federal editors.

Commensurate with Cobbett's love for Great Britain, was his hatred to France. His strictures upon the conduct of the directory were very severe, and scarcely less so upon that of the king of Spain and his minister in this country, who were charged with subserviency to France; the former, as Cobbett said, being "governed like a dependent by the nod of the five despots at Paris, the other by the directions of the French agents in America. Because the infidel tyrants thought proper to rob and insult this country and its government, and we have thought proper, I am sorry to add, to submit to it, the obsequious imitative Don must attempt the same, in order to participate in the guilt and lessen the infamy of his masters." Yrujo, the Spanish minister, hoping to maintain an action against Cobbett for libel, had the matter laid before the grand jury of the circuit court of the United States; and the latter was bound over to the next term for trial. The case, however, was never tried in this court. Yrujo, thinking a successful prosecution more probable in the courts of the state of Pennsylvania, whose chief-justice, M'Kean, was a devoted friend of France, and particularly of the Spanish minister, concluded to resort to these tribunals. A warrant was issued by M'Kean against Cobbett for libels on the king of Spain and his minister; and at the next criminal sessions, the case was brought before the grand jury to whom M'Kean gave an elaborate and able charge; but no indictment was found. Other attempts were made by this judge to procure the conviction of Cobbett for libel, which did not succeed. These occurrences took place in 1797.

During this year, the yellow-fever prevailed in Philadelphia; and Cobbett attacked the opinions of Dr. Rush respecting the origin of this disease, and ridiculed his method of treating it. A suit for libel was commenced against Cobbett for damages. The trial came on in December, 1799: and a judgment was obtained for \$5,000. This, and other prosecutions, (no other, however, resulting in a conviction of libel,) were the cause of his return to England.

In March, 1799, a few days after the adjournment of congress, resistance was made in Pennsylvania to the law levying a direct tax upon houses and lands. It was confined, however, to the counties of Northumberland, Bucks, and Montgomery. The measurement of the houses

which was required by the law in rating the assessment, was violently opposed. A large number of rioters were arrested; but they were rescued by a party of armed horsemen, headed by a man named Fries. The president issued a proclamation enjoining submission to the laws; and made a requisition upon the governor of Pennsylvania for a military force to enforce them. Fries and most of his party were arrested and taken to Philadelphia. Fries was convicted of treason; but one of the jurors having, as was afterward ascertained, previously expressed an opinion as to the deserts of the prisoner, a new trial was granted. Others of the party were convicted of misdemeanor. Fries was tried again the next year, and again found guilty, with two others, of the same offense; all of whom were pardoned by the president, to the great displeasure of many of the federalists, who attributed this act of clemency to motives of personal advantage.

The 6th congress commenced its 1st session December 2, 1799. The house had obtained a decided majority in favor of the administration; and Theodore Sedgwick, of Massachusetts, was elected speaker, over Nathaniel Macon of North Carolina, by a vote of 41 to 33. The third annual address of the president was delivered the next day. The prosperous state of the country, notwithstanding the interruptions to our commerce occasioned by the belligerent state of a great part of the world; the return of health, industry, and trade, to those cities which had lately been afflicted with disease; and the civil and religious advantages secured and continued under our happy frame of government, were mentioned as subjects demanding the gratitude of the whole American people. The president called the attention of congress to the judiciary system, which, he said, needed amendment "to give due effect to the civil administration of the government, and to insure a just execution of the laws."

In relation to the French question, the president said: "When indications were made on the part of the French republic of a disposition to accommodate the existing differences between the two countries, I felt it my duty to prepare for meeting their advances, by a nomination of ministers upon certain conditions which the honor of the country dictated, and which its moderation had given a right to prescribe. The assurances which were required of the French government previous to the departure of our envoys, have been given through their minister of foreign relations, and I have directed them to proceed on their mission to Paris." [The history of the mission and treaty has been given.]

The two houses, in their answers to the president's speech, expressed their approbation of his course toward France, although it was not easy to prepare an answer which would give satisfaction to the president, and receive the concurrence of those members who were opposed to the new mission to that country.

The business of the session had scarcely been commenced, when the melancholy intelligence was received of the death of Gen. Washington, which had occurred on the 14th of December, 1799. The announcement was made in the house by John Marshall, of Virginia. Appropriate demonstrations of respect were adopted by both houses. Probably the death of no other individual in the United States ever produced so deep a sensation in the public mind.

Among the acts passed at this session were, an act making farther appropriations for the military establishment; an act to continue the non-intercourse with France; and an act to continue in force the act for the defense of merchant vessels against French depredations; an act laying additional duties on sugar, molasses, and wines; an act for the preservation of peace with the Indian tribes; a bankrupt law; and an act providing for taking the second census.

An act was also passed at this session "to divide the territory of the United States, north-west of the Ohio, into two separate governments." All that part of this territory lying westward of a line beginning at the Ohio, opposite the mouth of the Kentucky river, and running thence to fort Recovery, and thence north to the Canada line, was to constitute a separate territory, called the Indiana territory, with a government similar to that then existing over the whole north-western territory.

To facilitate the sale and settlement of the western lands, which had been exceedingly slow, owing to the defective method of sale, for the purpose of increasing the revenue, a change in the system was made at this session, and four land offices were to be established within the territory. Gen. Wm. H. Harrison appeared at this session as the first delegate from the north-western territory; and to his efforts, chiefly, has been ascribed the adoption of a system under which that country was afterward so rapidly settled.

The disaffection which had for some time existed in the federal party, was coming to a crisis. The president intending to spend the summer at his residence in Massachusetts, and being indisposed to leave the executive business in the hands of cabinet officers, a majority of whom were no longer his friends, he determined to make a change in some of the departments—a change delayed only from motives of political expediency. Nothing but the dreaded effects of a cabinet explosion upon the party, could have prevented either their dismissal by the president, or their voluntary resignation. Just before the close of the session, in May, 1800, Mr. Adams requested the secretaries of state and of war (Pickering and M'Henry) to resign, which the latter promptly did; but which the former, preferring a direct dismissal, refused to do. John Marshall of Virginia was appointed secretary of state in the place of

Mr. Pickering, and Samuel Dexter, of Massachusetts, in the place of Mr. M'Henry.

Within a few months a presidential election was to take place ; and the great object of the federal opponents of Mr. Adams was to contrive a plan to prevent his reëlection without defeating the party ;⁴ in other words, to effect the election of some other federalist. In order to succeed, their purpose must be concealed from the mass of the party.

It will be recollected that the original mode of electing president and vice-president still existed, by which the presidential electors were required to vote for two persons without designating the office to which each was to be elected, and by which the one having the highest number of votes was to be president, the one having the next highest was to be vice-president. John Adams and Charles C. Pinckney were the federal candidates. The plan of Mr. Adams' federal opponents was to try, by secret exertions, to secure the largest number of votes for Mr. Pinckney. Mr. Adams knowing their scheme, and conceiving their opposition to him to have arisen from their partialities for England, and his own desire to avoid a war with France, he stigmatized them as a British faction. They were by some suspected of actually wishing for a war, believing it would be a popular measure, and insure the success of the party at the next presidential election.

This charge by Mr. Adams and his friends against these federal leaders, provoked their resentment, and incited them to a more determined opposition. So highly inflamed were the feelings of Hamilton, that, against the remonstrances of some of his friends, he wrote and printed a pamphlet, repelling the imputations of subserviency to Great Britain, noticing the defects in the character of Mr. Adams which unfitted him for the station he occupied, and maintaining the superior fitness of Mr. Pinckney for that office. The issuing of this pamphlet at this time, was not a wise measure. It was intended only for private circulation among the leading federalists ; but as might have been expected, it soon passed its prescribed limits, and portions of it appeared in democratic newspapers. It was, however, apparently written in a spirit of candor, and was not discreditable to its author ; and, as between the accuser and the accused, its publication was justifiable.

The prospects of Mr. Adams' reëlection were not flattering. He had been elected in 1796, by 71 votes against 68 for Mr. Jefferson, and there were early indications of another close contest, with the chances rather against him than in his favor. The alien and sedition laws had been doing their work, wielded, as they were, by the skillful leaders of the opposition. True, his conduct toward France had been mild and conciliatory ; and her insults and injuries had been borne until her most ardent

friends could not but justify the change of policy which it had been deemed necessary to adopt. His defensive measures were on the whole popular; but then they required an increase of taxation, which, though for the wisest and best of purposes, is always regarded by many as a greater evil than an unconstitutional law or a national wrong. His efforts to maintain friendly relations with France, and his precautionary measures of national defense when threatened by war, however they may have checked the virulence of the opposition, yet failed to gain for him many active supporters from that party, while his ready compliance with the wishes of France, as we have seen, seriously affected his standing with his own. Hence, the result of the election in November took no one by surprise.

The 2nd session of the 6th congress, which, as has been stated, was held at the new seat of government, terminated the 3d of March, 1801. At this session was passed "an act to provide for the more convenient organization of the courts of the United States;" an act which, from the circumstances connected with and following it, obtained not a little celebrity. Under the act previously existing, the United States were divided into thirteen judicial districts, which composed three circuits. In each of these thirteen districts, two courts were to be held annually by two justices of the supreme court, (then six in number,) with the judge of the district. The great extent of these circuits, and the difficulties of traveling at that early day, caused great delays in the administration of justice; and the subject of a remedy had been repeatedly urged upon the attention of congress.

By the new act, the number of districts was increased to twenty-three, and the number of circuits to six, with three circuit judges in each. The act was approved February 13, 1801; thus giving to the president less than three weeks before the expiration of his term of office, the appointment of a large number of judges, attorneys, marshals, &c. Filling the new offices mainly or altogether with federalists, loud complaints were made by the opposition, who denounced both the law and the president by whom it had been conceived, as was alleged, for the express purpose of making place for his federal friends. The opposition having obtained majorities in the next congress, the law was repealed at its first session, and of course the new judges sent to private life.

An act was passed near the close of the session, providing for a naval peace establishment. Apprehensions of a war with France having subsided, an act was passed at the close of the session, authorizing the president to sell all the vessels of the navy, except thirteen frigates which were named; six of which were to be kept in constant service and the residue to be laid up in convenient ports.

Upon the 6th congress, at the present session, and almost simultaneously with the passage of the judiciary act, devolved the election of president. In the electoral colleges, Thomas Jefferson and Aaron Burr, the republican candidates, had each received 73 votes. The two federal candidates had received, John Adams, 65, and Charles C. Pinckney, 64; one vote having been given to John Jay. The votes for Jefferson and Burr being equal, the house of representatives, voting by states, must determine the election.

There being now sixteen states in the union, the vote of nine states was necessary to a choice, which, after a tedious balloting, was at length obtained by Mr. Jefferson, on the 36th ballot. Although both were republicans, Mr. Burr being from a northern state, (New York) and the supposition that he would, if elected, give less strength to his party than Mr. Jefferson, the former was the least exceptionable to the federal members generally, whose intention it was early known to be, to vote for him, though against the remonstrances, it is said, of Hamilton, who, in a letter to an eastern friend, gave the following striking delineation of his character :

" I trust New England, at least, will not fall into the snare. There is no doubt that, upon every prudent and virtuous calculation, Jefferson is to be preferred. He is by far not so dangerous a man, and he has pretensions to character. As to Burr, there is nothing in his favor. His private character is not defended by his most partial friends. He is bankrupt beyond redemption, except by the plunder of his country. His public principles have no other spring or aim than his own aggrandizement. If he can, he will certainly disturb our institutions to secure himself permanent power, and with it wealth.

" Let it not be imagined that Burr can be won to federal views. It is a vain hope. Stronger ties and stronger inducements will impel him in a contrary direction. His ambition will not be content with those objects which virtuous men of either party will allot to it; and his situation and his habits will oblige him to have recourse to corrupt expedients, from which he will be restrained by no moral scruples. To accomplish his ends, he must lean upon unprincipled men, and will continue to adhere to the myrmidons who have hitherto surrounded him. To these he will no doubt add able rogues of the federal party; but he will employ the rogues of all parties to overrule the good men of all parties, and to promote projects which wise men of every description will disapprove. These things are to be inferred with moral certainty from the character of the man. Every step of his career proves that he has formed himself on the model of Catiline; and he is too cold-blooded and determined a conspirator ever to change his plan."

The balloting continued about a week; Jefferson receiving the votes of eight states: New York, New Jersey, Pennsylvania, Virginia, North Carolina, Georgia, Kentucky, and Tennessee. Burr received the votes of six states: New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware, and South Carolina. Vermont and Maryland were equally divided. Had all the federal members voted for Burr, he would have had a plurality of the states. The division of Maryland was caused by one of the federal representatives voting for Jefferson in conformity with the wishes of his constituents; and the single member from Georgia, a federalist, (his colleague having died,) did the same; as did also one of the North Carolina members; but for which, this state would have been divided; which would have given Burr eight states, Jefferson six, and leaving Vermont and North Carolina without a vote. By the absence of Morris, of Vermont, a federalist, and by Craik and Baer, of Maryland, also federalists, casting blank ballots, the 36th ballot gave Jefferson ten states.

It was this election which led to the change in the mode of electing president and vice-president, by the adoption of the 12th article of amendments.

Connected with the history of this election, are certain statements which involve the honor and veracity of certain distinguished gentlemen. The design was charged upon the federalists of standing out and preventing an election, and of passing an act to vest the executive authority in some high officer of the government. Mr. Jefferson, in a letter of the 15th of February, wrote to Mr. Monroe as follows: "Four days of balloting have produced not a single change of a vote. Yet it is confidently believed that to-morrow there is to be a coalition. I know of no foundation for this belief. If they could have been permitted to pass a law for putting the government into the hands of an officer, they would certainly have prevented an election. But we thought it best to declare openly and firmly, one and all, that the day such an act passed, the middle states would arm, and that no such usurpation, even for a single day, should be submitted to. This first shook them; and they were completely alarmed at the resource for which we declared, to wit, a convention to reorganize the government and to amend it. The very word *convention* gives them the horrors, as, in the present democratical spirit of America, they fear they should lose some of the favorite morsels of the constitution. Many attempts have been made to obtain terms and promises from me. I have declared to them unequivocally, that I would not receive the government on capitulation; that I would not go into it with my hands tied."

Among the persons implicated in this charge, was James A. Bayard,

of Delaware, afterward senator in congress, and one of the commissioners who negotiated the treaty of peace with Great Britain in 1814. Mr. Bayard, who is universally conceded to have maintained through life a character unblemished and above suspicion, in exculpation of himself, made a deposition, April 3, 1806, of which the following are extracts :

"Messrs. Baer and Craik, members of the house of representatives from Maryland, and General Morris, a member of the house from Vermont, and myself, having the power to determine the votes of the states, from similarity of views and opinions, during the pendency of the election, made an agreement to vote together. We foresaw that a crisis was approaching which might probably force us to separate in our votes from the party with whom we usually acted. We were determined to make a president, and the period of Mr. Adams' administration was rapidly approaching.

"In determining to recede from the opposition to Mr. Jefferson, it occurred to us, that, probably, instead of being obliged to surrender at discretion, we might obtain terms of capitulation. The gentlemen whose names I have mentioned, authorized me to declare their concurrence with me upon the best terms that could be procured. The vote of either of us was sufficient to decide the choice. With a view to the end mentioned, I applied to Mr. John Nicholas, a member of the house from Virginia, who was a particular friend of Mr. Jefferson. I stated to Mr. Nicholas that if certain points of the future administration could be understood and arranged with Mr. Jefferson, I was authorized to say that three states would withdraw from an opposition to his election. He asked me what those points were; I answered, First, sir, the support of the public credit; secondly, the maintenance of the naval system; and lastly, that subordinate public officers employed only in the execution of details, established by law, shall not be removed from office on the ground of their political character, nor without complaint against their conduct. I explained myself, that I considered it not only reasonable, but necessary, that offices of high discretion and confidence should be filled by men of Mr. Jefferson's choice. I exemplified, by mentioning, on the one hand, the offices of the secretaries of state, treasury, foreign ministers, &c.; and on the other, the collectors of ports, &c. Mr. Nicholas answered me, that he considered the points very reasonable, that he was satisfied that they corresponded with the views and intentions of Mr. Jefferson, and he knew him well. That he was acquainted with most of the gentlemen who would probably be about him and enjoy his confidence, in case he became president, and that if I would be satisfied with *his* assurance, he could solemnly declare it as his opinion, that Mr. Jefferson, in his administration, would not depart from the points I proposed. I

replied to Mr. Nicholas, that I had not the least doubt of the sincerity of his declaration, and that his opinion was perfectly correct, but that I wanted an engagement, and that if the points could in any form be understood as conceded by Mr. Jefferson, the election should be ended; and proposed to him to consult Mr. Jefferson. This he declined, and said he could do no more than give me the assurance of his own opinion as to the sentiments and designs of Mr. Jefferson and his friends. I told him that was not sufficient, that we should not surrender without better terms. Upon this we separated; and I shortly after met with General Smith, to whom I unfolded myself in the same manner that I had done to Mr. Nicholas. In explaining myself to him in relation to the nature of the offices alluded to, I mentioned the offices of George Latimer, collector of the port of Philadelphia, and Allen M'Lane, collector of Wilmington. General Smith gave me the same assurance as to the observance by Mr. Jefferson of the points which I had stated, which Mr. Nicholas had done. I told him I should not be satisfied, nor agree to yield, till I had the assurance of Mr. Jefferson himself; but that if he would consult Mr. Jefferson, and bring the assurance from him, the election should be ended. The general made no difficulty in consulting Mr. Jefferson, and proposed giving me his answer the next morning. The next day, upon our meeting, General Smith informed me that he had seen Mr. Jefferson, and stated to him the points mentioned, and was authorized by him to say, that they corresponded with his views and intentions, and that we might confide in him accordingly. The opposition of Vermont, Maryland, and Delaware, was immediately withdrawn, and Mr. Jefferson was made president by the votes of ten states."

In the "great debate" in the senate, January, 1830, Mr. Hayne brought into the senate the 4th volume of Jefferson's memoirs for the purpose of reference. Certain other senators called the attention of Mr. Clayton, of Delaware, to the following passage which they had discovered in the volume:—"February the 12th, 1801.—Edward Livingston tells me that Bayard applied to-day, or last night, to Gen. Samuel Smith, and represented to him the expediency of coming over to the states who vote for Burr; that there was nothing in the way of appointment which he might not command, and particularly mentioned the secretaryship of the navy. Smith asked him if he was authorized to make the offer. He said he was authorized. Smith told this to Livingston, and to W. C. Nicholas, who confirms it to me," &c.

Messrs. Livingston and Smith being at this time (1830) both members of the senate, Mr. Clayton, in order to rescue the character of his deceased predecessor from unjust reproach, called upon the senators from Louisiana and Maryland to disprove the above statement; both of whom

declared that they had no recollection of such a transaction. In addition to this testimony, the sons of the late Mr. Bayard published a letter from George Baer, one of the federal members from Maryland, in 1801, addressed to Richard H. Bayard, under date of April 19, 1830, in which Mr. Baer said :—" Previous to and pending the election, rumors were industriously circulated, and letters written to different parts of the country, charging the federalists with the design to prevent the election of a president, and to usurp the legislative power. I was privy to all the arrangements made, and attended all the meetings of the federal party when consulting on the course to be pursued in relation to the election, and I pledge my most solemn asseveration that no such measure was for a moment contemplated by that party; that no such proposition was ever made; and that if it had ever been, it would not only have been discouraged, but instantly put down, by those gentlemen who possessed the power, and were pledged to each other to elect a president before the close of the session.

"Although nearly thirty years have elapsed since that eventful period, my recollection is vivid, as to the principal circumstances, which, from the part I was called upon to act, were deeply graven on my memory. It was soon ascertained that there were six individuals, the vote of any one of whom, could at any moment decide the election. These were your father, the late James A. Bayard, who held the vote of the state of Delaware, General Morris, of Vermont, who held the divided vote of that state, and Mr. Craik, Mr. Dennis, Mr. Thomas, and myself, who held the divided vote of Maryland. Your father, Mr. Craik, and myself, having compared ideas upon the subject, and finding that we entertained the same views and opinions, resolved to act together, and accordingly entered into a solemn and mutual pledge, that we would, in the first instance, yield to the wishes of the great majority of the party with whom we acted, and vote for Mr. Burr, but that no consideration should induce us to protract the contest beyond a reasonable period for the purpose of ascertaining whether he could be elected. We determined that a president should be chosen, but were willing thus far to defer to the opinions of our political friends, whose preference of Mr. Burr was founded upon a belief that he was less hostile to federal men and federal measures, than Mr. Jefferson. General Morris and Mr. Dennis concurred in this arrangement.'

CHAPTER XIV.

MR. JEFFERSON'S INAUGURATION.—APPOINTMENTS.—NATURALIZATION.—
PURCHASE OF LOUISIANA.—BOUNDARY TREATY WITH ENGLAND.

THE inauguration of Mr. Jefferson took place on the 4th of March, 1801, with the appropriate ceremonies usual on similar occasions. The inaugural address, in its language and sentiments, was regarded as unexceptionable; and in respect to parties, its tone was pacific and conciliatory. The following paragraphs constitute the greater part of the address.

"During the contests of opinion through which we have passed, the animation of discussion and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely, and to speak, and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression. Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect, that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some, and less by others; that this should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans—we are all federalists. If there be any among us who would wish to dissolve this union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left

free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong, that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it is the only one, where every man, at the call of the laws, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

"Let us, then, with courage and confidence, pursue our own federal and republican principles, our attachment to our union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the other; possessing a chosen country, with room enough for our descendants to the hundredth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them; enlightened by a benign religion, professed, indeed, and practised in various forms, yet all of them including honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here, and his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow-citizens, a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

"About to enter, fellow-citizens, on the exercise of duties which comprehend every thing dear and valuable to you, it is proper that you should understand what I deem the essential principles of our government, and consequently those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship, with all nations--

entangling alliances with none ; the support of the state governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies ; the preservation of the general government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad ; a jealous care of the right of election by the people—a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided ; absolute acquiescence in the decisions of the majority—the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism ; a well-disciplined militia—our best reliance in peace, and for the first moments of war, till regulars may relieve them ; the supremacy of the civil over the military authority ; economy in the public expense, that labor may be lightly burdened ; the honest payment of our debts and sacred preservation of the public faith ; encouragement of agriculture and of commerce, as its handmaid ; the diffusion of information and the arraignment of all abuses at the bar of public reason ; freedom of religion ; freedom of the press ; freedom of person under the protection of the habeas corpus ; and trial by juries impartially selected—these principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages, and the blood of our heroes, have been devoted to their attainment. They should be the creed of our political faith—the text of civil instruction—the touchstone by which to try the services of those we trust ; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.”

Mr. Jefferson selected for his cabinet officers, James Madison, secretary of state ; Henry Dearborn, of Massachusetts, secretary of war, and Levi Lincoln, of Massachusetts, attorney-general. Samuel Dexter, of Massachusetts, secretary of the treasury, and Benjamin Stoddart, of Maryland, secretary of the navy, both of whom had been appointed by Mr. Adams, were continued in office ; as also Joseph Habersham, of Georgia, postmaster-general ; until January, 1802, when Albert Gallatin, of Pennsylvania, was appointed secretary of the treasury ; Robert Smith, of Maryland, secretary of the navy ; and Gideon Granger, of Connecticut, postmaster-general. Mr. Habersham had held this office since his appointment by president Washington, February 25, 1795. The postmaster-general was first made a cabinet officer by president Jackson.

The newspaper which was selected as the official organ of the new administration, was the *National Intelligencer*, which had been established in the new city a few months before the election, by Benjamin

Harrison Smith of Philadelphia, for some time publisher of a republican paper in that city. The *Intelligencer* is the paper now published by Gales and Seaton, into whose hands it came a few years after its commencement. An opposition paper, the *Washington Federalist*, was established at or near the same time as the *Intelligencer*.

The tenor of the inaugural address, and the assurances given to Mr Bayard, had allayed the apprehensions of the opposition in relation to a general removal of public officers subject to executive appointment. A larger number of removals, however, were made than the federalists deemed consistent with the professions and pledges of Mr. Jefferson. A case which obtained a notoriety beyond any other, was that of the displacement of Elizur Goodrich, collector of the port of New Haven, and the appointment of Samuel Bishop, nearly seventy-eight years of age, whose eye-sight was much impaired, and whose qualifications for the office were considered far inferior to those of his predecessor. The merchants of New Haven sent a remonstrance to the president, in which they declared the superiority of Mr. Goodrich's qualifications, and reminded the president of the sentiments expressed in his inaugural address. In his reply Mr. Jefferson thus vindicated his course :

"Declarations by myself, in favor of political tolerance, exhortations to harmony and affection in social intercourse, and respect for the equal right of the minority, have, on certain occasions, been quoted and misconstrued into assurances that the tenure of offices was not to be disturbed. But could candor apply such a construction? When it is considered that, during the late administration, those who were not of a particular sect of politics were excluded from all office; when, by a steady pursuit of this measure, nearly the whole offices of the United States were monopolized by that sect; when the public sentiment at length declared itself, and burst open the doors of honor and confidence to those whose opinions they approved; was it to be imagined that this monopoly of office was to be continued in the hands of the minority? Does it violate their *equal rights* to assert some rights in the majority also? Is it *political intolerance* to claim a proportionate share in the direction of the public affairs? If a due participation of office is a matter of right; how are vacancies to be obtained? Those by death are few, by resignation none. Can any other mode than that of removal be proposed? This is a painful office; but it is made my duty, and I meet it as such. I proceed in the operation with deliberation and inquiry, that it may injure the best men least, and effect the purposes of justice and public utility with the least private distress; that it may be thrown as much as possible on delinquency, on oppression, on intolerance, on anti-revolutionary adherence to our enemies.

"I lament sincerely that unessential differences of opinion should ever have been deemed sufficient to interdict half the society from the rights and the blessings of self-government, to proscribe them as unworthy of every trust. It would have been to me a circumstance of great relief, had I found a moderate participation of office in the hands of the majority. I would gladly have left to time and accident to raise them to their just share. But their total exclusion calls for prompter corrections. I shall correct the procedure; but that done, return with joy to that state of things when the only questions concerning a candidate shall be, Is he honest? Is he capable? Is he faithful to the constitution?"

To the general sentiments contained in this vindication, there would seem to be little ground of objection, even on the part of the federalists. The most that was or might be said with any force, by way of rejoinder, was, that Mr. Adams had made no removals of consequence, and none from party considerations, most of the incumbents having been appointed by Gen. Washington, against whose administration no organized opposition was formed, and before the republican party could be fairly said to have had existence. Great, however, as was the clamor of the opposition, the number of removals from important offices during his whole administration, has been given as less than forty, which, although nearly equal to all others made to the close of John Quincy Adams's administration, bears no comparison to the extent to which proscription for opinion's sake has since been carried.

Great objection was made to appointments which Mr. Adams made during, and after the balloting in the house for president. Filling offices so near the close of his term of office, Mr. Jefferson considered as an infringement of his prerogative, and as being void. The commissions of several of them had been executed, but not having been delivered, Mr. Jefferson suppressed them, and made new appointments. The judges appointed in conformity with the provisions of the new judiciary act holding their offices during good behavior, and not being removable, the act, as has already been stated, was repealed at the next session of congress, rather from the motive, as the federalists suspected, of nullifying Mr. Adams's "midnight appointments," as they were termed, than for the alleged reason that an additional number of judges was unnecessary.

In a letter to Mr. Giles, of Virginia, Mr. Jefferson wrote, March 23: "Some principles have been the subject of conversation, but not of determination; *e. g.*, all appointments to *civil* offices *during pleasure*, made after the event of the election was certainly known to Mr. Adams, are considered as nullities. I do not view the persons appointed as even candidates for the office, but make others without noticing or notifying them. 2. Officers who have been guilty of official misconduct are sub-

jects of removal. 3. Good men to whom there is no objection but difference of political principle, practiced on only as far as the right of a private citizen will justify, are not proper subjects of removal, except in the cases of attorneys and marshals. The courts being so decidedly federal and irremovable, it is believed that republican attorneys and marshals, being the doors of entry into the courts, are indispensably necessary as a shield to the republican part of our fellow-citizens, which, I believe, is the main body of the people. These principles are yet to be considered of, and I sketch them to you in confidence."

To Mr. Gerry he wrote, March 28: "Mr. Adams's last appointments, when he knew he was naming aids and counsellors for me, and not for himself, I set aside, as far as depends on me. Officers who have been guilty of gross abuses of office, such as marshals packing juries, &c, I shall now remove, as my predecessors ought in justice to have done. The instances will be few, and governed by strict rule, not party passion. The right of opinion shall suffer no invasion from me. Those who have acted well have nothing to fear, however they may have differed from me in opinion."

In a letter to Gideon Granger, May 3, he wrote: "The clergy who have missed their union with the state, the Anglemen, who have missed their union with England, and the political adventurers, who have lost the chance of swindling and plunder in the waste of public money, will never cease to bawl, on the breaking up of their sanctuary. But among the people the schism is healed, and with tender treatment the wound will not reopen. The quondam leaders have been astounded with the suddenness of the desertion; and their silence and appearance of acquiescence have proceeded, not from a thought of joining us, but the uncertainty what ground to take. The very first acts of the administration, the nominations, have accordingly furnished something to yelp on, and all our subsequent acts will furnish them fresh matter, because there is nothing against which human ingenuity will not be able to find something to say."

To Levi Lincoln, July 11, 1801: "The consolidation of our fellow-citizens in general, is the great object we ought to keep in view; and that being once obtained, while we associate with us in affairs, to a certain degree, the federal sect of republicans, we must strip of all the means of influence the Essex junto, and their associate monarchs in every part of the Union. The former differ from us only in the shades of power to be given to the executive, being, with us, attached to republican government. The latter wish to sap the republic by fraud, if they cannot destroy it by force, and to erect an English monarchy in its place. We are proceeding gradually in the regeneration of offices, and

introducing republicans to some share in them. I do not know that it will be pushed further than was settled before you went away, except as to Essex men. I must ask you to make out a list of those in office in yours and the neighboring states, and to furnish me with it." [Appendix, Note C.]

The 7th congress assembled at Washington, December 7, 1801. Nathaniel Macon, of North Carolina, a republican, was elected speaker of the house of representatives. In the senate, Abraham Baldwin, of Georgia, for many years a member of the house, was elected president *pro tem*; the majorities in both houses being republican.

Instead of making his first communication to congress by personal address, as had been the practice, he adopted that by message, as used on subsequent occasions through the session. The reasons for this course, assigned in a letter to both houses, were, "the convenience of the legislature, the economy of their time, and their relief from the embarrassment of immediate answers on subjects not yet fully before them."

The president announced to congress "on the grounds of reasonable certainty, that the wars and troubles which had for so many years afflicted our sister nations, had at length come to an end, and that the communications of peace and commerce were once more opening among them." Peace and friendship generally prevailed among the Indian tribes. He stated briefly the difficulty with the bey of Tripoli. Dissatisfied with the sum paid him in purchase of the late treaty, he had demanded more without any shadow of right, and threatened war in case of a refusal. The president had sent out a small squadron of frigates to the Mediterranean to protect our commerce; and the danger had been dispelled. One of the Tripolitan cruisers had been captured by an American schooner.

A prominent object of recommendation was a reduction of the public expenditures. Offices and officers he thought had been unnecessarily multiplied; and he had already begun to reduce those dependent on executive discretion. The expenses of diplomatic agency had also been diminished. But the great mass of offices were created by law, and the law-making power alone could abolish them. The military establishment was too large for a state of peace. Other topics were noticed, among which was an alteration of the naturalization law.

An act was passed, at this session for the apportionment of representatives according to the second census. The ratio of 33,000 was readopted. Also an act for the protection of our commerce and seamen against the Tripolitan cruisers; an act fixing the military peace establishment, by which the army was much reduced, and a military academy established at West Point; an act regulating intercourse with the Indian tribes

and to preserve peace on the frontiers ; an act for the repeal of internal duties on stills and domestic distilled spirits, refined sugars, licenses to retailers, sales at auction, carriages, stamped paper, &c.; an act appropriating annually \$7,300,000 to the sinking fund for the payment of the public debt. The state of the treasury, however, did not admit of the appropriation ; consequently the act was inoperative.

An act was also passed concerning naturalization. By the first act passed on this subject, in 1790, an alien might be admitted as a citizen, at any time after a two years' residence, on application to the proper court of any state in which he had resided for one year. By the act of 1795, a residence of five years was required, and the application was to be made three years before admission. In 1798, the year of the passage of the alien and sedition laws, a naturalization act was passed, requiring a residence of fourteen years, the application to be made five years before admission. The act passed this year, (1802) restored the term of residence to five years, and that of the previous application to three years.

An act to enable the people of the eastern division of the north-western territory to form a constitution and state government, and for the admission of such state (Ohio) into the union, was passed.

Near the close of Mr. Adams' administration, an adjustment was made with Great Britain of the claims of her citizens upon citizens of the United States, for debts contracted prior to the revolution, and which had been assumed by our government in Jay's treaty. The amount agreed upon, was \$2,644,000 ; to be paid in three annual instalments. An act was passed at this session making the necessary appropriations for the payment of these British debts.

The great measure of Mr. Jefferson's administration was the purchase of Louisiana. The reacquisition of this territory from Spain was an object much desired by Napoleon. It being rumored in England and France, that, by a secret treaty, Spain had ceded Louisiana and the Floridas to France, Mr. King, our minister at London, in a letter dated March 29, 1801, informed our government of the rumor, and expressed the opinion that such treaty had been actually executed, and his apprehension " that this cession was intended to have, and might actually produce, effects injurious to the union and consequent happiness of the people of the United States." This apprehension was founded upon the known opinion of certain influential persons in France, " that nature had marked a line of separation between the people of the United States living upon the two sides of the range of mountains which divides their territory." This acquisition of Louisiana would give to France the command of the mouth of the Mississippi, and consequently the control of the trade of the western states ; and it was suspected as being possibly a part of her design to effect a union ultimately with these states.

It is unnecessary to say, that the United States were anxious to prevent this apprehended transfer of the territory in question; and our ministers in France and Spain, Robert R. Livingston and Charles Pinckney, were instructed, if the cession had not been made, to use their endeavors to defeat the project; and Mr. Pinckney was particularly requested (May 11, 1802,) if Spain should retain New Orleans and the Floridas, to endeavor "to obtain the arrangement by which the territory on the east side of the Mississippi, including New Orleans, might be ceded to the United States, and the Mississippi made a common boundary, with a common use of its navigation for them and Spain." But notwithstanding the denial of the fact on the part of the French government to Mr. Livingston, and persisted in for a year, the cession had been made as early as October, 1800.

By the treaty between the United States and Spain, of October 27, 1795, our western boundary was fixed in the middle of the Mississippi down to the 31st degree of north latitude; and the navigation of the whole breadth of the river from its source to the ocean, was to be free to the subjects and citizens of both countries; and in consequence of these stipulations, the citizens of the United States were to be permitted for three years, to use the port of New Orleans as a place of deposit and exportation for their merchandise; which privilege was to be thereafter continued, if not prejudicial to Spain; and if not continued there, "an equivalent establishment" was to be assigned for this purpose at some other place on the bank of the Mississippi. But, notwithstanding these plain stipulations, the use of the port of New Orleans was suddenly interrupted by the intendant of the province of Louisiana at New Orleans, on the pretext that, "with the publication of the ratification of the treaty of Amiens, and the reestablishment of the communication between the English and Spanish subjects, the inconvenience [of the privilege granted by the treaty] had ceased;" adding, that the "toleration could be no longer consented to without an express order from the king."

Information of this interruption of trade was communicated to congress by the president the 30th of December, 1802. On the 7th of January, 1803, the house of representatives adopted a resolution, in which they declared, that, while "willing to ascribe this breach of compact to the unauthorized misconduct of certain individuals," they held it to be their duty "to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi, as established by existing treaties." This affair was made the subject of communication to both Mr. Pinckney and to Mr. Livingston.

The empty declaration, by congress, of a determination to maintain

the rights of our citizens, was not satisfactory to the western people, who expected some prompt, direct, and effective measure of redress. In response to their continued complaints, resolutions were introduced into the senate by Mr. Ross, an opposition senator from Pennsylvania, authorizing the president to take possession of New Orleans, and providing a force of 50,000 men; and an appropriation of \$5,000,000. This proposition failed; but a law was passed, authorizing the president, whenever he should judge it expedient, to require the executives of such states as he should think proper, to hold in readiness a detachment of militia not exceeding 80,000. An appropriation of \$1,500,000 was made for subsisting the troops, purchasing military stores, and defraying other necessary expenses: and \$25,000 was appropriated for erecting arsenals on the western waters, and for furnishing them with arms and ammunition. Prior, however, to the passage of this act, a letter was received from Gov. Claiborne, of the Mississippi territory, inclosing one from the governor of Louisiana, saying that the suspension of deposits by the intendant was without orders from the Spanish government, and that the measure did not accord with his judgment. The matter would be communicated to the governor of Havana, who had some kind of superintendence over the authorities at New Orleans.

Mr. Livingston, writing to the secretary of state, April 24, 1802, said he had not yet received answers to his inquiries in relation to the rumored cession,—what its boundaries were, what were the intentions of France respecting it, and when they were to take possession; and it was still uncertain whether the Floridas were included in the cession. He was, however, himself confident that such was the fact, and that the government was fitting out an armament to take possession; the number of troops to be from five to seven thousand, and to sail for New Orleans, unless the state of affairs in St. Domingo should change their destination. The anticipation of the occupation, by France, of the acquired territory, caused the deepest solicitude on the part of our government, and a determination to effect, if possible, a reversal of the cession. Mr. Livingston endeavored to convince the French government that it would not be advantageous to France to take possession of Louisiana. The cession of the territory to her, however, might be turned to her advantage, if she would avail herself of it in the only way which sound policy dictated. (He spoke of Louisiana proper, without including the Floridas.) The way in which to secure this advantage was: having acquired the right to navigate the Mississippi, and a free trade, she could secure a vent for a vast variety of her commodities in the western states, by proper arrangements with the United States. It would be necessary to afford them cheaper than those they received from Great Britain. This

she could do by interesting the American merchant in their sale, and by engaging the government of the United States to give them a preference. These objects might be attained by ceding New Orleans to the United States, reserving to herself the right of entry without the payment of higher duties than were exacted from vessels of the United States, and the right to navigate the Mississippi. This would enable France to carry her fabrics into all the western territory. She would command the respect without exciting the fear of the two nations whose friendship was most important to her commerce, and to the preservation of her islands: and all this without the expense of maintaining colonial establishments. But should France retain New Orleans, and endeavor to colonize Louisiana, she would render herself an object of jealousy to Spain, the United States, and Great Britain, who would discourage her commerce, and compel her to make expensive establishments for the security of her rights.

The object of our government seems to have been to purchase New Orleans and the Floridas; for, although the latter was not included in the cession, it was suggested by Mr. Livingston, that France could acquire it by an exchange with Spain, returning her Louisiana, retaining New Orleans, and then give the latter and Florida for our debt. In a letter to Mr. Madison of December 20, 1802, Mr. Livingston, although not sanguine of success, had such encouragement as to think it advisable to ask for instructions "how to act in case favorable circumstances should arise." The armament for Louisiana, he said, had not yet sailed.

Before this letter was received, the president, contemplating the cession of Louisiana to France, in connection with the affair at New Orleans, determined to take measures most likely, not only to reestablish our present rights, but to effect their enlargement and security. The importance of the crisis, he thought, demanded the experiment of an extraordinary mission; and he appointed Mr. Monroe, as an associate of Mr. Livingston, and also of Mr. Pinckney, if it should be necessary, in treating with the Spanish government. The instructions were to procure, if possible, a cession of New Orleans and the Floridas. Information of this appointment was communicated by Madison to Mr. Livingston under date of the 18th of January, 1803.

On the 24th, Mr. Livingston wrote, informing our government of the appointment of General Bernadotte, brother-in-law of Joseph Bonaparte, as minister to the United States. This letter spoke discouragingly; and an accompanying dispatch appeared to assume that Florida also was ceded to France. But on the 3rd of March, he wrote that it was still in the hands of Spain.

A direct negotiation had been commenced before the arrival of Mr

Monroe, and was successfully terminated about a month afterward, with Marbois, minister of the treasury, whom the first consul preferred to Talleyrand, for this business. From the voluminous correspondence on this subject, it may be inferred, that, among the considerations which facilitated the negotiation, were these: First, Apprehensions that Great Britain would take possession of that territory, and transfer it to the United States; it being generally known that that government was averse to its occupation by France. A confirmation of this fact had recently been given by the London papers, in which was a proposition for raising fifty thousand men to take New Orleans. Second, The apprehension that the United States themselves would take possession; information having been received of the passage of the resolution by congress to maintain the rights guaranteed by the treaty with Spain, and of the introduction of the more recent resolutions of Mr. Ross in the senate, proposing to raise a force to take New Orleans. Third, A pressing want of money on the part of Napoleon.

The first definite proposition appears to have come from the first consul, through Marbois, which was, that the United States should give one hundred millions of francs, pay their own claims, and take the whole country. To which Mr. Livingston replied, "that the United States were anxious to preserve peace with France; that, for that reason, they wished to remove them to the west side of the Mississippi; that we would be perfectly satisfied with New Orleans and the Floridas, and had no disposition to extend across the river; that, of course, we would not give any great sum for the purchase. Mr. L., being pressed to name a sum they would give, told Marbois, that they had no authority to go to a sum that bore any proportion to what he had mentioned; but that as he had himself considered the demand too high, he would oblige them by telling what he thought would be reasonable. He replied, that if they would name sixty millions, and pay the American claims, about twenty millions more, he would communicate the offer to the first consul. Mr. L. told him "that it was vain to ask any thing that was so greatly beyond our means; that true policy would dictate to the first consul not to press such a demand; that he must know that it must render the present government (of the United States) unpopular, and have a tendency, at the next election, to throw the power into the hands of men who were most hostile to a connection with France; and that this would probably happen in the midst of a war." Marbois feared the consul would not relax. Mr. L. asked him to press upon the consul the argument that the country was not worth the price asked, together with the danger of seeing the country pass into the hands of Great Britain. He told him that he had seen the ardor of the Americans to take it by force, and the

difficulty with which they were restrained by the prudence of the president; that he must easily see how much the hands of the war party would be strengthened, when they learned that France was on the eve of a rupture with England. In the same interview, Marbois was asked whether, in case of a purchase, France would stipulate never to possess the Floridas, and that she would aid us to procure them; to which he replied in the affirmative.

Although the ministers had no instructions to purchase Louisiana, the thing not having been contemplated—perhaps never before thought of; but the offer to sell having been made by Bonaparte, and the great value of the acquisition to the United States being considered, our ministers were induced to assume the responsibility of transcending their authority. The conference sketched above, took place on the 13th of April, and on the 30th, the treaty was signed by the parties to the negotiation.

Among the stipulations of the treaty was one conceding to the vessels of France and Spain coming directly from any part of their respective dominions, loaded only with the products of the same, the right, for twelve years, to enter the ports of the ceded territory on the same terms as vessels of the United States coming directly from the same countries. During this time, no other nation was to enjoy the same privileges; and thereafter, France was to enjoy the footing of the most favored nations. The sum to be paid was 60,000,000 francs, and the French debt which was not to exceed 20,000,000; the precise amount not having been ascertained. An investigation of the claims was provided for in the treaty. The French debt having been subsequently determined to be \$3,750,000 the whole purchase amounted to \$15,000,000. The treaty consisted of three separate parts; the first being properly the treaty of cession. This was followed by two conventions, the first of which contained the stipulation for the payment of the 60,000,000 francs in six per cent. stock, interest to be paid half yearly; the principal to be paid in annual instalments of not less than three millions of dollars, to commence fifteen years after the exchange of ratifications. The other convention stipulated the payment of the claims of American citizens against France, and established the mode of determining them.

Thus was obtained, in consequence of an unexpected offer of Bonaparte, and contrary to the instructions of our government and to the constitution, an acquisition to the United States of incalculable value. Mr. Jefferson admitted this purchase and "annexation" to be unauthorized, and proposed an *ex post facto* amendment of the constitution, to give sanction to the measure, but which was never attempted.

Mr. Monroe, soon after his departure from the United States, was appointed (April 18, 1803,) minister to Great Britain, whither he pro-

ceeded after the conclusion of the treaty at Paris, to take the place of Mr. King, who wished to return, having represented the United States at London seven years.

As the exchange of ratifications was to be made within six months from the date of the treaty, it became necessary for the president to convene congress before the regular day of its meeting, in order to submit the treaty to the senate for approval. Congress was accordingly assembled on the 17th of October; and on the 20th it was ratified by that body, ten days before the expiration of the six months. On the 31st, an act was passed for taking possession of the territory, and for its temporary government; on the 10th of November, an act was passed for creating a stock to the amount of \$11,250,000, to be paid to France; and an act providing for the payment of the claims of our citizens.

By the treaty of 1800, between France and Spain, it was agreed that, in case of the cession of the Louisiana territory by France Spain was to be preferred. The necessary haste in concluding the treaty did not admit of a previous consultation with the Spanish government. Displeased with this violation of a treaty engagement on the part of France, that government withheld its assent to the late cession to the United States, for nearly a year.

Before the close of the session, an act was passed dividing Louisiana into two territories. All that portion, lying south of the Mississippi territory, and of an east and west line from the river, at the 33d degree of north latitude, to the western boundary of the territory, was to constitute the territory of Orleans; and the residue was to be called the district of Louisiana. There being within this district but few inhabitants, and these chiefly residing along the river in villages of which the principal was St. Louis, the district, for the purpose of government, was placed under the jurisdiction of Indiana, then comprising all the original north-western territory, except the state of Ohio which had been recently formed, (1802.)

In that part of the act relating to the government of the territory of Orleans, was a provision prohibiting the bringing of slaves into it from beyond the limits of the United States, or from any of the states such as had been imported since the 1st of May, 1798, under a penalty of three hundred dollars; and the slaves were to be free. The introduction of this provision into the law is said to have been the result of a memorial of an abolition convention, praying congress to prohibit the farther importation of slaves into the purchased territory. At the same session, a committee of the house, acting upon an unfavorable report made at the preceding session on a memorial from a convention of the people of Indiana asking for a suspension of the anti-slavery article of the ordinance

of 1787, reported in favor of such suspension for ten years! Slaves born within the United States only were to be admitted; and their descendants were to be free, males at twenty-five, and females at twenty-one years of age. No action was taken on the report. A similar application to congress from the same territory three years afterward, also failed, after having again received a favorable report.

An act was also passed, further to protect our commerce against the Barbary powers; the expense of equipping and manning the necessary vessels, to be provided for by increasing the duties on imports two and a half per cent., and if imported in foreign vessels, ten per cent.; the money thus raised to be called the "Mediterranean fund."

At this session, by the constitutional majority of two-thirds, the change in the election of president and vice-president was proposed to the several states; which, having been ratified by the requisite number of states, became a part [the 12th article of amendment] of the constitution. Of the sixteen states, all but Massachusetts, Connecticut, and Delaware, were in favor of the amendment; the ratification by three-fourths being necessary.

Apprehensions were entertained of serious difficulties with Spain. A convention had been concluded with that government in August, 1802, for the adjustment of claims for spoliations upon our commerce, and for depredations of French cruisers which had been harbored in the ports of Spain, where the prizes had been condemned. By the terms of the treaty, the claims were to be adjusted by a joint board of commissioners appointed by both governments. But the ratification had been refused by Spain, her displeasure having been excited by our acquisition of Louisiana, and the establishment of a port of entry within what she claimed to be the boundaries of her Florida possessions. On being assured that there was no intention to take forcible possession of the territory, but that our claims in that quarter would be reserved for future discussion, her assent to the cession of Louisiana was given. The treaty for the settlement of claims, however, the king of Spain refused to ratify until the 9th of July, 1818, nearly sixteen years after it was concluded and signed at Madrid by Mr. Charles Pinckney and Pedro Cevallos. It was proclaimed by president Monroe, December 22, 1818.

The question as to the true boundaries of Louisiana was long in dispute. As held by France prior to 1763, the territory extended west to the Rio Bravo, or Rio del Norte, (now commonly called Rio Grande,) and east of the Mississippi to the river Perdido, which separated it from the Spanish province of Florida. The eastern part was transferred to Great Britain, and with some additional territory ceded by Spain, called West Florida. Therefore as Spain received it from France, it was

bounded on the east by the Mississippi river and lakes Pontchartrain and Borgne. In 1783, the Floridas were restored to Spain. Now, did Spain, by this restoration, acquire the western portion of Florida to the Mississippi, which she did not originally receive from France; but which belonged to France before the cession of 1763? In other words, did the United States receive the original Louisiana as owned by France; or Louisiana as received from France by Spain? The territory conveyed was described in the treaty, as "the colony or province of Louisiana, with the same extent as it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other states." This language would of course admit different constructions. Mr. Livingston considered the cession as including all originally owned by France, except what Spain might have ceded to other nations by subsequent treaties.

A formal delivery of the territory was made on the 20th of December, 1803, in the city of New Orleans, by the French commissioner, Laussaut, to Gov. Claibourne, of the Mississippi territory, and Gen. James Wilkinson, who received the ceded territory on the part of the United States. Nothing official passed on that occasion concerning the boundaries; but Laussaut confidentially signified, that the territory did not include any part of West Florida, but that it extended westwardly to the *del Norte*. Orders were accordingly obtained from the Spanish authorities for the delivery of all the posts on the west side of the river and on the island of New Orleans. No orders were given to our commissioners to demand those in West Florida; first, because it was presumed, that the demand would be rejected by the Spanish authority at New Orleans, and that the French commissioner would not support it; secondly, because, if opposed by him, our title would be weakened, and in either of the cases, we should be prematurely compelled to choose between an overt submission to the refusal and a resort to force; thirdly, because mere silence would be no bar to a plea, at any time, that a delivery of a part, particularly of the seat of government, was a virtual delivery of the whole; whilst, in the mean time, we could ascertain the views, and claim the interposition of the French government, and avail ourselves of any favorable circumstances for effecting an amicable adjustment with the government of Spain.

In May, 1803, Mr. King, our minister at London, concluded a treaty adjusting the boundary line between the two nations. On the 24th of October it was laid before the senate. Although the president, in his message communicating the treaty, had expressed his approval of it, in the ratification the 5th article was excepted; and the treaty, thus

amended, was sent back to the British government for concurrence. In the letter accompanying the treaty from Mr. Madison, secretary of state, to Mr. Monroe, who had succeeded Mr. King, the reason alleged for excepting the 5th article was, that as it was of a later date than the last convention with France, ceding Louisiana to the United States, the line to be run in pursuance of the 5th article might be found or alleged to abridge the northern extent of that territory. Expunging this article would leave the boundary where it was when Louisiana was in possession of France, and subject to future friendly negotiation. And considering the remoteness of the time when a line would become necessary, the postponement was deemed to be of little consequence. Great Britain did not consent to the proposed amendment; and the boundary line continued in dispute for more than thirty years.

CHAPTER XV.

MR. JEFFERSON'S RE-ELECTION.—RELATIONS WITH FRANCE AND ENGLAND.—TREATY WITH THE LATTER REJECTED.—AFFAIR OF THE CHESAPEAKE.—SLAVE TRADE ABOLISHED.

NEAR the close of the session of 1804, a caucus of the republican members was held for the nomination of candidates for president and vice-president. Mr. Jefferson was nominated for reelection. Mr. Burr, not being generally acceptable to the party, was dropped, and George Clinton, of New York, was selected as the candidate for vice-president. The federal candidates were Charles C. Pinckney and Rufus King. Jefferson and Clinton were elected almost unanimously, having received each 162 of the electoral votes to 14 given for their opponents; the latter having received only the votes of Connecticut, (9,) of Delaware, (3,) and 2 of the 11 votes of Maryland.

Mr. Jefferson differed essentially from his predecessors in his views of the means of national defense. They had encouraged an effective fortification of our harbors, and the maintenance of an efficient navy. Mr. Jefferson supposed an adequate defense could be provided at a far less expense. At the session of 1803, an act was passed, authorizing the president to procure the building of fifteen small vessels called "gun-boats," for which \$50,000 were appropriated. The treaty with France having removed the occasion for any additional armament, the money

was not then expended. Confident, however, of the efficiency of these vessels, he contemplated the gradual extension of this system as a substitute for that which was then in operation. In his annual message of November, 1804, he informed congress that the building of the boats under the act of 1803, was in a course of execution, and recommended to congress to provide for their increase from year to year. His plan, elsewhere expressed, was to build about two hundred and fifty of these boats, twenty-five every year, for ten years.

The advantages of this species of vessels enumerated in the message, were, "their utility toward supporting within our waters the authority of the laws; the promptness with which they will be manned by the seamen and militia of the place the moment they are wanted; the facility of their assembling from different parts of the coast to any point where they are required in greater force than ordinary; the economy of their maintenance and preservation from decay when not in actual service; and the competence of our finances to this defensive provision without any new burthen." The intended mode of "preservation from decay" was to haul them up under sheds, whence they could be readily launched when wanted. The expense of these two hundred and fifty boats he estimated at only about one million of dollars. Congress, however, not sufficiently confident of the success of the plan, appropriated only \$60,000 for the building of not exceeding twenty-five boats. In April, 1806, fifty more were authorized; and in December, 1807, not exceeding one hundred and eighty-eight. This system of cheap marine, however, having been found inefficient, became very unpopular, and scarcely survived the period of his administration. Indeed, two years before its close, congress, against his own recommendation, refused to make an appropriation for this object.

As a substitute for the usual expensive fortifications, the president proposed heavy cannon, mounted on carriages, to be conveyed to any places on the coast or banks of our navigable waters where they might be wanted to resist the approach of an enemy.

Among the acts passed at the second session of the 8th congress, (1804-5,) the last of Mr. Jefferson's first term, was an act to divide the Indiana territory into two separate governments. By this act, the territory of Michigan was formed, and provision made for its temporary government.

The inhabitants of Orleans territory, being dissatisfied with their government, petitioned congress for the privilege of forming a state government. An act was passed, authorizing the president to establish within the territory a government similar to that of the Mississippi territory. There was to be a legislature like that provided by the ordinance of con-

gress of 1787; an assembly elected by the people, and a legislative council. [See Ordinance of 1787.] And the inhabitants, when they should number 60,000, might form a state constitution and be admitted into the union.

The district of Louisiana, formerly under the jurisdiction of Indiana, was formed into a separate district with a government of its own, and called the territory of Louisiana; the governor to be appointed by the president, and the legislative power to be vested in the governor and judges, with power also to establish courts.

On the 4th of March, 1805, Mr. Jefferson was inaugurated the second time as president of the United States. In his inaugural address, he alluded, in general terms, to the policy of his administration towards foreign nations. "Justice had been done them on all occasions; and mutual interests and intercourse on fair and equal terms had been cherished." Respecting his domestic policy he said: "The suppression of unnecessary offices, of useless establishments and expenses, enabled us to discontinue our internal taxes. These, covering our land with officers, and opening our doors to their intrusions, had already begun that process of domiciliary vexation, which, once entered, is scarcely to be restrained from reaching successively every article of produce and property.

* * * The remaining revenue on the consumption of foreign articles, is paid cheerfully by those who can afford to add foreign luxuries to domestic comforts; being collected on our seaboard and frontiers only, and incorporated with the transactions of our mercantile citizens, it may be the pleasure and the pride of an American to ask, What farmer, what mechanic, what laborer, ever sees a tax-gatherer in the United States? These contributions enable us to support the current expenses of the government, to fulfill contracts with foreign nations, to extinguish the native right of soil within our limits, to extend those limits, and to apply such a surplus to our public debts, as places at a short day their final redemption, and that redemption once effected, the revenue thereby liberated may, by a just repartition among the states, and a corresponding amendment of the constitution, be applied, *in time of peace*, to rivers, canals, roads, arts, manufactures, education, and other great objects within each state. *In time of war* . . . aided by other resources reserved for that crisis, it may meet within the year all the expenses of the year, without encroaching on the rights of future generations by burdening them with the debts of the past."

In reference to the acquisition of Louisiana he said, it "has been disapproved by some, from a candid apprehension that the enlargement of our territory would endanger its union. But who can limit the extent to which the federative principle may operate effectively? The larger

our association, the less will it be shaken by local passions; and, in any view, is it not better that the opposite bank of the Mississippi should be settled by our own brethren and children, than by strangers of another family? With which shall we be most likely to live in harmony and friendly intercourse?"

His philanthropic regard for the Indians is thus expressed: "Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores; without power to divert, or habits to contend against, they have been overwhelmed by the current, or driven before it; now reduced within limits too narrow for the hunter's state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence, and to prepare them for that state in society, which to bodily comforts adds the improvement of the mind and morals. We have therefore liberally furnished them with the implements of husbandry and household use; we placed among them instructors in the arts of first necessity; and they are covered with the ægis of the law against aggressors from among ourselves." But there were "powerful obstacles to encounter;" among which was "the influence of crafty individuals among them who now felt themselves something, and feared to become nothing in any other order of things. * * They too have their anti-philosophers who find an interest in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendancy of habit over the duty of improving our reason and obeying its mandates."

He spoke of the abuses of the press in opposing his administration. "They might have been corrected by the wholesome punishments reserved and provided by the laws of the several states against falsehood and defamation; but public duties more urgent press on the time of public servants, and the offenders have therefore been left to find their punishment in the public indignation." The experiment had been successfully tried, "whether a government, conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation." He approved the enforcing of state laws against false and defamatory publications as conducive to public morals and public tranquillity; but "the experiment is noted, to prove that, since truth and reason have maintained their ground against false opinions in league with false facts, the press, confined to truth, needs no other legal restraint."

He congratulated the country on "the union of sentiment now manifested so generally, as arguing harmony and happiness to our future course." Others would rally to the same point; "facts were piercing through the veil drawn over them;" and the "doubting would at length think and act with the mass of their fellow-citizens."

The 9th congress commenced its 1st session the 2d of December, 1805. The message of the president was chiefly devoted to our foreign relations, which it represented as being in an unfavorable condition. He said:—"Our coasts have been infested and our harbors watched by private armed vessels, some of them without commissions, some with illegal commissions, others with those of legal form, but committing piratical acts beyond the authority of their commissions. They have captured in the very entrance of our harbors, as well as in the high seas, not only the vessels of our friends coming to trade with us, but our own also." Allusion was herein made to the French and Spanish cruisers who infested our southern coast, annoying our commerce with the West Indies.

He referred also to the unsettled difficulties with Spain. She still refused to ratify the treaty which provided compensation for spoiliations during the former European war; and had renewed the same practice since the renewal of that war. On the Mobile, our commerce was obstructed by arbitrary duties and vexatious searches; and she had rejected propositions for adjusting amicably the boundaries of Louisiana. Inroads had been made into the territories of Orleans and the Mississippi, and our citizens plundered in the very ports which had been delivered up by Spain: and he had found it necessary to order troops to the frontier to protect our citizens and repel future aggressions. Other details would be the subject of another communication.

The message also noticed the conduct of Great Britain. "The same system of hovering on our coasts and harbors under color of seeking enemies has been also carried on by public armed ships, to the great annoyance and oppression of our commerce. New principles, too, have been interpolated into the law of nations, founded neither in justice nor the usage or acknowledgment of nations. According to these, a belligerent takes to himself a commerce with its own enemy which it denies to a neutral, on the ground of its aiding that enemy in the war. But reason revolts at such an inconsistency, and the neutral having equal right with the belligerent to decide the question, the interest of our constituents and the duty of maintaining the authority of reason, the only umpire between just nations, impose on us the obligation of providing an effectual and determined opposition to a doctrine so injurious to the rights of peaceable nations."

In the new European war, France, Holland, and Spain were allied

against Great Britain. The exposure to capture of the merchant vessels of the belligerent nations, had caused their withdrawal from the ocean : and the United States and other neutral maritime nations were enjoying an immensely profitable carrying trade, not only with the colonies of the belligerents, but with their mother countries, and on principles recognized by Great Britain herself. It was an established rule of national law, that *the goods of a neutral, consisting of articles not contraband of war, in neutral vessels, employed in a direct trade between a neutral and a belligerent country, are protected, except in ports invested or blockaded.* In conformity to this principle, a direct trade was carried on with the enemies of Great Britain and their colonies, and chiefly by American vessels ; and many of the goods imported by our merchants from those colonies, were reëxported to their parent countries. Not well pleased to see American merchants so rapidly amassing fortunes, and her enemies receiving by American vessels the productions of their own colonies, without the hazard which would attend the transportation in their own vessels, Gréat Britain ordered the capture of our vessels, alleging that the trade was unlawful, on the principle, that *a trade from a colony to its parent country, not being permitted to other nations in a time of peace, can not be made lawful in a time of war ;* that is to say, because these countries, in time of peace, monopolize the trade with their colonies, the United States might not avail themselves of the advantages of a participation in this trade tendered to them in time of war. It was alleged, also, that the voyage was unbroken by the landing of the goods in a port of the United States, and paying duties there, and, therefore, that the cargo was subject to condemnation, even under the British regulation of 1798, which so far relaxed the general principle as to allow a direct trade between a belligerent colony and a neutral country carrying on such a trade.

These were the “new principles” which the president said “had been interpolated into the law of nations.” The general principle, that a neutral nation is disallowed, in time of war, a trade not allowed in time of peace, was of modern date, assumed by Great Britain for her own special interest, and maintained by no other nation. It was contrary also to the practice of Great Britain herself. She had invariably relaxed her navigation laws in time of war, so as to admit neutrals to trade where they were not allowed to trade in time of peace, particularly with her colonies. She had, by law and by orders in council, authorized her own subjects to *trade directly with her enemies.* And it was alleged that American vessels and cargoes, after having been condemned by British courts under pretense of unlawful commerce, were sent, on British account, to the enemies of Great Britain !

These depredations upon American commerce produced great excitement and alarm among the merchants in commercial places. Memorials from merchants in New York, Philadelphia, Baltimore, Charleston, and other places were sent to the president and to congress, on the subject, praying for the interposition of the government. The number of captures was large, and had been made principally by the British, a few by the French and Spanish privateers. Of the vessels captured, which had been insured in the Philadelphia insurance offices alone, there were more than seventy. The Philadelphia memorial pointed out the inconsistency of Great Britain. In 1801, it was held by her ministry and her courts, "that the produce of the colonies of the enemy may be imported by a neutral into his own country, and be reexported thence, even to the mother country of such colony;" and, "that landing the goods and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country." Now, in 1805, it is decided that the landing and paying duties *does not* break the continuity of the voyage.

On the 17th of January, 1806, the president communicated the memorials to congress, with a message in which he stated, that the right of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent permitted by the laws of the country, (except blockaded ports and contraband of war,) had been recognized by Great Britain in the actual payment of damages awarded to the United States for the infraction of that right, in which award her own commissioners had concurred. He also noticed the impressment of our seamen by Great Britain.

In answer to a resolution of the senate, Mr. Madison, secretary of state, communicated a statement of the various principles interpolated into the law of nations by Great Britain and France. Among those introduced by the latter, was a decree, that every privateer, of which two-thirds of the crew should not be either natives of England, or subjects of a power the enemy of France, should be considered as pirates; and another, that every foreigner found on board the vessels of war or of commerce of the enemy, was to be treated as a prisoner of war, and could have no right to the protection of the diplomatic and commercial agents of his nation. Other unjustifiable innovations on the law of nations were found in a decree issued from St. Domingo, against our trade with the revolted blacks of that island. The secretary mentioned, as a unjustifiable measure, the mode of search practiced by British ships, and by the cruisers of France and Spain. Instead of remaining at a propo-

distance from the vessel to be searched, and sending their own boat with a few men for the purpose, they compelled the vessel to send her papers in her own boat, and sometimes with great danger from the condition of the boat and the state of the weather. A report from the secretary of state, March 5, 1806, stated the number of American seamen impressed or detained by British ships of war or privateers whose names had been reported to the department since the statement made at the last session, to be 913, and the aggregate number since the commencement of the present war in Europe, 2273. An act was passed at this session, (Feb. 13, 1806,) appropriating *two millions* of dollars "for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations." The passage of this act was the occasion of much excited feeling in the house, and of a temporary defection of a portion of the democratic members. On the 6th of December, a confidential message on the subject of our difficulties with Spain, was sent to the house, submitting the question as to the employment of force in repelling her aggressions in Louisiana. The message, with the accompanying papers, having been read with closed doors, was referred to a select committee, of which John Randolph was chairman; and who was informed by the president and Messrs. Madison and Gallatin, that really, instead of troops, money was wanted for the president, to be used in negotiation for the purchase of Florida, or at least the western part of it. Randolph was told, also, says Hildreth, that, as things now stood, France would not allow Spain to adjust her differences with us; that she wanted money, and that we must give it to her, or have a Spanish and French war. The reason for not asking openly for the money, has been supposed to be, that the president did not wish to subject the administration to the charge of inconsistency, by placing in the hands of the executive large sums of money for unknown objects, a practice which they had expressly condemned; but preferred that the appropriation should appear to have been made by congress without solicitation.

Mr. Randolph was much displeased at the attempt to raise the money in this covert manner; and the efforts of Mr. Bidwell, of Massachusetts, who endeavored, at the instance of the president, to get the appropriation incorporated into the report were unsuccessful. The committee reported on the 3d of January, 1806, that the refusal of Spain to ratify the treaty of 1802, and to adjust the boundaries of Louisiana; her taxing of our commerce on the Mobile; and her violations of our territory, afforded just cause of war: but the committee, rather than recommend any measure that would interrupt the prosperity of the country, reported a resolution in favor of raising a sufficient number of troops to protect the southern territory against Spanish aggression.

Mr. Bidwell then submitted a resolution proposing an appropriation for the purpose of defraying any extraordinary expenses that might be incurred in foreign intercourse. The resolution of the committee was rejected, owing perhaps to the fact that, during the debate, one of the president's friends inadvertently disclosed his "secret wishes" to the house; and Mr. Bidwell's resolution for appropriating \$2,000,000 was adopted. The act making the appropriation authorized the president to borrow the money at six per cent., and pledged for its reimbursement the extra duty of two and a half per cent., mentioned in a preceding chapter, as constituting the Mediterranean fund, which, peace having been made with Tripoli, was not wanted for the purpose intended. A resolution was adopted, however, declaring that "an exchange of territory between the United States and Spain, would be the most advantageous mode of settling the existing differences about their respective boundaries."

On this question, and from this time, Mr. Randolph and a few other republican members coöperated with the federalists, with whom he subsequently (1812) voted against the declaration of war. His opposition to the administration has been by some attributed to the refusal of Mr. Jefferson to appoint him to a foreign mission for which his friends had made application, though without his own solicitation.

To appease the government of France, whose complaints had assumed a somewhat menacing aspect, an act was passed to suspend all commercial intercourse with the revolting blacks of St. Domingo. All persons residing in the United States were forbidden to trade with any person in any part of that island not in possession or under the acknowledged government of France, on pain of forfeiture of the vessel and cargo.

To retaliate the impressment of our seamen and the infringement of our neutral rights, on the part of Great Britain, an act was passed, prohibiting the importation, from any of her ports, or of the ports of her colonies, any goods manufactured of leather, silk, hemp, tin, or brass; low priced woollen cloths, window glass and glass ware, silver and plated ware, paper of every description, nails and spikes, hats, ready-made clothing, millinery, playing cards, beer, ale, porter, pictures and prints.

An act was passed, authorizing the president, if he should deem it necessary, to call on the executives of the states for 100,000 militia, to be kept in readiness for immediate service; and an act appropriating not exceeding \$150,000 for fortifying forts and harbors, and not exceeding \$250,000 for building the fifty gun-boats before mentioned.

At this session was passed the act authorizing the construction of the Cumberland road; a work which has been the subject of more frequent discussions and appropriations than almost any other public improve-

ment ever projected in this country. The road was to be made from Cumberland in Maryland, to the state of Ohio. It has since been continued westward through several states.

To carry out the intention of the act appropriating the money for the purchase of Florida, the president appointed General Armstrong, of New York, and Mr. Bowdoin, of Massachusetts, as joint commissioners with those of Spain, to settle our difficulties with that country. They met at Paris. It was hoped that the influence of the French government might aid in effecting the desired consummation. The negotiation, however, was unsuccessful. Mr. Bowdoin was at the time minister to Spain. Mr. Charles Pinckney having desired to be recalled, Mr. Bowdoin had been appointed to succeed him.

It will be recollected, that the first ten articles of the treaty negotiated by Mr. Jay, in 1794, were permanent, and that the articles regulating commercial intercourse were to continue in force two years after the conclusion of the then existing European war, but in no case longer than ten years. This part of the treaty having expired in 1804, the British government proposed to extend the period of its continuance. The benefits ascribed to this treaty, had induced a large portion of the people to suppose that an offer to renew it would have been accepted. But it was declined. Among the objections to the treaty at the time of its ratification, were its supposed unfavorable operation upon the interests of France, and the absence of any stipulation against the impressment of our seamen. The latter objection, in particular, was urged against its renewal. A provision against impressment was certainly very desirable, and it was probably hoped by the administration, that the British government would eventually be induced to consent to such provision.

On the 12th of May, 1806, William Pinkney, of Maryland, was associated with Monroe, as envoy plenipotentiary to Great Britain. Another attempt was made to effect a satisfactory arrangement on the subject of impressment. But the British government was still unwilling to relinquish its claim to take from our vessels such seamen as appeared to be British subjects.

On the 31st of December, a treaty was concluded with British commissioners. A large proportion of the provisions of this treaty was taken from that of 1794. It was also silent on the subject of impressment. In their letter accompanying the treaty, our ministers said, that, although the British government did not feel at liberty to relinquish the claim to search our merchant vessels for British seamen, satisfactory assurance had been given them, that the practice would be essentially if not completely abandoned; and that by the policy adopted by that

government, the United States were made as secure against the exercise of the right claimed as if it had been relinquished by treaty. On the 2d of March, the president received from Mr. Erskine, the British minister at Washington, a copy of the treaty; but considering it liable to several serious objections, the most important of which seemed to be that it contained no stipulation against impressment, he did not even submit it to the senate.

The rejection of the treaty, by which our commercial intercourse with Great Britain was left without regulation, caused much dissatisfaction with the commercial community. And the refusal of the president to submit it to the senate, was condemned by the federal party. It was admitted to be objectionable in several particulars; but the negotiators on the part of the United States being political friends of the president, and having been also opposed to the treaty of 1794, it was presumed that a better treaty could not be obtained; and it was preferable to no treaty at all. Or, had it been laid before the senate, some valuable modification of it might perhaps have been effected.

The course of the president was approved by the republican party. As the advice of the senate was not binding on the executive, he ought not to yield to it when, in his judgment, a measure was clearly prejudicial to the public interest. It had been said that he ought to have submitted it with propositions for its modification. But if he was convinced that the treaty was all that could be obtained from the British government, and that its adoption was impolitic, the withholding of it could not be justly considered a violation of duty.

A renewal of the negotiation, with a view to certain alterations of the rejected treaty, was proposed by Messrs. Monroe and Pinkney to Mr. Canning, successor to Mr. Fox, who had died since the conclusion of the treaty. But the proposal to negotiate on the basis of that treaty was declined. Mr. Monroe conceiving any acceptable arrangement with the British government to be hopeless, returned near the close of the year 1807.

Displeased at the manner in which the treaty had been received, Mr. Monroe, in a letter to Mr. Madison, dated February 23, 1808, vindicated the course of himself and his associate, and the treaty they had negotiated. He considered the informal assurance alluded to, and the accompanying explanations, as placing the United States on ground both honorable and advantageous. "The British paper," continues Mr. Monroe, "states that the king was not prepared to disclaim or derogate from a right on which the security of the British navy might essentially depend, especially in a conjuncture when he was engaged in wars which enforced the necessity of the most vigilant attention to the preservation and supply of his naval force; that he had directed his commissioners to

give to the commissioners of the United States the most positive assurances that instructions had been given, and should be repeated and enforced, "to observe the greatest caution in the impressing of British seamen, to preserve the citizens of the United States from molestation or injury; and that prompt redress should be afforded on any representation of injury sustained by them." He said, "the negotiation on the subject of impressment was to be postponed for a limited time and for a special object only, and to be renewed as soon as that object was accomplished; and, in the interim, that the practice of impressment was to correspond essentially with the views and interests of the United States."

The opinion that the ratification of the treaty would have been the better policy, has always been extensively entertained. By leaving the question of impressment open for future negotiation, nothing could have been lost, while by the rejection of the treaty much was hazarded. It was construed by the government of Great Britain into an indisposition on the part of the president, to preserve a friendly intercourse with that nation. It left the relations between the two countries in a loose and irritating condition, and was considered as one of a train of causes that resulted in the war of 1812.

On the 22d of June, 1807, a British squadron of four vessels lay at anchor near the capes of Virginia. As the United States frigate Chesapeake passed the squadron, the British frigate Leopard put off and went to sea before the Chesapeake. When the latter came up, she was hailed by Captain Humphreys of the Leopard, who said he had a dispatch to deliver from the British commander-in-chief, meaning Admiral Berkeley of the American station. The dispatch proved to be an order to take from the Chesapeake certain men alleged to be deserters from a British frigate. Commodore Barrow refused permission to search his vessel, stating that he had forbidden his officers to enlist British subjects, and that he did not believe any were on board. Whereupon the Chesapeake received a broadside from the Leopard. Apprehending no danger, and being unprepared for action, the Chesapeake immediately struck her flag, having three men killed and eighteen wounded. A boat was then sent with an officer and four men, from the Leopard to the Chesapeake. Commodore Barrow considering the vessel a prize to the Leopard, the officers tendered their swords to Captain Humphreys, but he declined receiving them, saying he only wished to execute the order of the admiral; and having taken off four men, left the vessel, which returned to Hampton Roads. A formal demand had been made upon our government by Mr. Erskine, the British minister at Washington, for the surrender of these men. Three of them, as was made to appear after their capture, were Americans, who had been in the British service.

This outrage produced great excitement throughout the United States, and was universally condemned. It is an established principle, that a national vessel shall be considered as part of the territory of the nation, and equally inviolable; wherefore the orders of Berkeley could under no circumstances have been justifiable.

On the 2d of July, president Jefferson issued a proclamation requiring all British armed vessels then within the harbors or waters of the United States, to depart without delay, and interdicting the entrance of such vessels.

A statement of the affair having been made by Mr. Monroe to Mr. Canning, the latter declared, that, if the facts should prove to be as stated, the act would be disowned by his government. Regarding the proclamation as itself an act of retaliation, and as taking the reparation into the hands of the American government, he inquired whether this government would withdraw the proclamation on the knowledge of his majesty's disavowal of the act which had occasioned its publication. Mr. Monroe having remarked, in his note to Mr. Canning, that it would be "improper to mingle with this more serious cause of complaint, other examples of indignity and outrage to which the United States have been exposed from the British squadron." Mr. Canning also expressed the wish of his government to adjust the case of the *Leopard* independently of the question of impressment with which it had been unnecessarily connected. And he said it was the intention of that government, if Mr. Monroe was not authorized to treat of it separately, to lose no time in sending a minister to America fully empowered to bring this unfortunate dispute to a conclusion. Mr. Rose was afterward sent to this country for that purpose.

Mr. Rose, on the 26th of January, 1808, stated to Mr. Madison, that he was instructed not to enter upon any negotiation for the adjustment of the Chesapeake affair, while the proclamation continued in force; and in relation to his not having been commanded to enter into the discussion of the other causes of complaint, he said, "it was because it had been deemed improper to mingle them with the present matter; an opinion originally and distinctly expressed by Mr. Monroe, and assented to by Mr. Canning."

Mr. Madison, in his reply, on the 5th of March, remarked: "It has been sufficiently shown that the proclamation, as appears on the face of it, was produced by a train of occurrences terminating in the attack on the American frigate, and not by this last alone. To a demand, therefore, that the proclamation be revoked, it would be perfectly fair to oppose a demand, that redress be first given for the numerous irregularities which preceded the aggression on the American frigate, as well as for

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this particular aggression." And he argued, that even if the proclamation had been founded upon this single aggression, the discontinuance of the proclamation could not be justly claimed, because, as the seamen in question were still retained, the aggression had not yet been discontinued.

Mr. Rose, having no authority to enter upon a negotiation on the conditions required by our government, informed Mr. Madison that his mission was terminated. This affair continued unadjusted for more than four years after its occurrence; when Mr. Foster, then minister at Washington, in behalf of his government, disavowed the act of Berkeley, (who had been recalled soon after the aggression,) and offered to restore the seamen and to make suitable pecuniary provision for the sufferers, including the families of the seamen killed and wounded in the action. Thus was this difficulty at length amicably settled. Its effects, however, upon other questions at issue between the two countries, were not wholly removed.

It was soon after the outrage upon the Chesapeake, that the United States became a party in the triangular warfare of commercial restrictions which preceded the war of 1812, and constituted one of the principal causes of that war. A connected history of our difficulties with England and France will be given in succeeding chapters.

In his message at the commencement of the session of 1806 and 1807, Mr. Jefferson suggested to congress the interposition of its authority for the abolition of the slave trade, which, by the constitution, might be terminated at the end of the year 1807. An act was accordingly passed at this session, to take effect at the earliest possible day. It prohibited the importation, after the 1st. of January, 1808, of all persons of color with intent to hold or dispose of them as slaves, or to be held to service or labor. Any person concerned in fitting out a vessel for the slave trade, was made liable to a fine of \$20,000; or aiding or abetting therein, for the purpose above mentioned, was subjected to a penalty of \$20,000; and the vessel was forfeited. • And the taking on board of any vessel, in a foreign country, any colored person with intent to sell him within the United States, was declared a high misdemeanor, punishable by imprisonment not more than ten, nor less than five years, and by fine not exceeding \$10,000, nor less than \$1,000. And any person knowingly purchasing or selling a colored person imported contrary to this act, was liable to a fine of \$800. The president was authorized to man and employ armed vessels to cruise on the coast of the United States, and to direct the commanders of armed vessels to take and bring into port any vessel having on board colored persons intended to be sold as slaves; the vessels if found within the jurisdictional limits of the United States, were liable to forfeiture; and it authorized the president to man and

employ cruisers to seize and bring into port any vessel violating this act; such vessel to be forfeited, and her commander to be liable to fine not exceeding \$10,000, and imprisoned not more than four nor less than two years. Coasting vessels of not less than forty tons burthen were permitted to transport slaves, under certain regulations, from state to state; and vessels of less burthen than forty tons might, without being subject to the same penalties, transport slaves on rivers and inland bays of the sea.

As usual on questions relating to slavery, there was a warm debate on this occasion. To the prohibition of the importation of slaves, there was no opposition. But certain details of the measure were the subjects of much controversy. It was proposed that the persons unlawfully brought into the country should be forfeited to the United States, and sold for life, for the public benefit. Another proposition was to make them free. And another to apprentice them for a term of years. A majority were unwilling that the general government should be subjected to reproach by the sale of human beings, and also that they should all be made free, as some states had forbidden emancipation: it was therefore finally agreed, that the several states should provide for the disposal of them.

CHAPTER XVI.

THE COMMERCIAL WARFARE BETWEEN GREAT BRITAIN, FRANCE, AND THE UNITED STATES. BRITISH ORDERS IN COUNCIL; FRENCH BERLIN AND MILAN DECREES; THE EMBARGO, &c.; DIPLOMATIC DISCUSSIONS.

THE war of 1812 may be traced to remote causes—to those of a date anterior even to that of the earliest transactions with which we commence the following sketch.

In August, 1804, Great Britain declared the French ports, from Ostend to the Seine, in a state of blockade. On the 16th of May, 1806, the British secretary of state, Mr. Fox, notified our minister at London, Mr. Monroe, that measures had been directed to be taken for the blockade of all the coasts, rivers, and ports, from the river Elbe to the river Brest, both inclusive. This order, however, did not apply to neutral vessels laden with goods not the property of his majesty's enemies, and not contraband of war, provided they had not been laden at an enemy's port, nor were bound to an enemy's port. Such vessels were "not pre-

vented from approaching the said coasts, rivers, and ports, except those from Ostend to the river Seine, which were to be considered as continued in a state of rigorous blockade."

The next day, May 17, Mr. Monroe communicated to Mr. Madison, secretary of state, the note of Mr. Fox; and in the letter accompanying it, Mr. Monroe remarked, in relation to the supposed effects of this measure upon the trade of the United States, as follows: "The note is couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless it takes it from many ports already blockaded, indeed from all east of Ostend and west of the Seine, except in articles contraband of war and enemies' property, which are seizable without blockade. And in like form of exception, considering every enemy as one power, it admits the trade of neutrals, within the same limit, to be free, in the productions of enemies' colonies, in every but the direct route between the colony and the parent country. * * * It can not be doubted that the note was drawn by the government in reference to the question; and if intended by the cabinet as a foundation on which Mr. Fox is authorized to form a treaty, and obtained by him for the purpose, it must be viewed in a very favorable light. It seems clearly to put an end to further seizures, on the principle which has been heretofore in contestation." And on the 20th of May, Mr. Monroe wrote again: "From what I could collect, I have been strengthened in the opinion which I communicated to you in my last, that Mr. Fox's note of the 16th was drawn with a view to a principal question with the United States, I mean that of the trade with enemies' colonies. It embraces, it is true, other objects, particularly the commerce with Russia, and the north generally, whose ports it opens to neutral powers, under whose flag British manufactures will find a market there. In this particular, especially, the measure promises to be highly satisfactory to the commercial interest, and it may be the primary object of the government."

This order was followed, on the part of Napoleon, by the Berlin decree; so called from its having been issued from the city of Berlin, the capital of Prussia, into which city he entered on his successful march through that kingdom. This decree, dated the 21st of November, 1806, declared the British islands in a state of blockade; and "all commerce and correspondence with them was prohibited." "All property whatsoever, belonging to a subject of England, and all merchandise belonging to England, or coming from its manufactories, or colonies, was declared lawful prize." Napoleon had been successful with his armies, having conquered a large portion of Europe; but his power on the seas had been much broken by the superior force of the British navy. Hence the

adoption of his *continental system*, as it was called, by which he intended to stop all trade between Great Britain and the continent. In the face of existing treaties between France and the United States, our minister at Paris was informed that the decree was applicable to American commerce.

This act of the French government was succeeded by the British orders in council, of January 7, 1807, which were superseded by, or merged in, other orders issued the 11th of November following. By these orders, all ports and places belonging to France and her allies, from which the British flag was excluded, and all the colonies of his Britanic majesty's enemies, were declared to be in a state of blockade. All trade in the produce or manufactures of these countries or colonies was prohibited; and all vessels trading to or from them, and all merchandise on board, were made subject to capture and condemnation; with an exception only in favor of the direct trade between neutral countries and the colonies of his majesty's enemies.

This measure, so detrimental to neutral commerce, was followed, on the 17th of December, 1807, by another still more sweeping on the part of France, called the Milan decree, by which the British islands were declared in a state of blockade, by sea and land; and every ship, of whatever nation, or whatever the nature of its cargo, that should sail from the ports of England or her colonies, or of countries occupied by English troops, and proceeding to England or to her colonies, or to countries occupied by the English, to be good prize. And every ship, of whatever nation, which had submitted to search by an English ship, or had made a voyage to England, or paid any tax to that government, was declared *denationalized*, and lawful prize.

These measures were most disastrous to American commerce, and wholly unauthorized by the law of nations. To be lawful, a blockade must be maintained by a force stationed at an enemy's ports, sufficient to make it dangerous for vessels to enter. That so extensive a blockade was or could be maintained by an adequate force was not even pretended by either party. It is true, the government of Great Britain asserted that the limited blockade of 1806 had been duly supported; but the pretension has never been generally conceded. Yet, under these orders and decrees, or mere "paper blockades," as they were called, an immense number of American vessels, with their cargoes, were captured by the privateers and cruisers of the two belligerents, and condemned as prize.

On the 22d of December, 1807, and before intelligence of the Milan decree had been received, congress, in pursuance of a recommendation of the president, passed the famous embargo law, by which all vessels with-

in the jurisdiction of the United States bound to a foreign port, were prohibited from leaving their ports; except foreign vessels either in ballast, or with the goods on board when notified of the act; and foreign armed vessels having public commissions for any foreign power. And all coasting vessels were required, before their departure, to give bonds to land their cargoes at some port in the United States. The following is the message of the president containing the recommendation of the measure. It was dated the 18th of December, 1807 :

“ The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

“ Their wisdom will also see the necessity of making every precaution for whatever events may grow out of the present crisis.”

Accompanying this message, were four documents, the “ communications” to which the message referred. One of these documents was an extract of a letter from the French grand judge, minister of justice, to the imperial attorney-general for the council of prizes, dated September 18, 1807, containing Napoleon’s construction of the Berlin decree; which was, that French “ vessels of war might seize on board neutral vessels either English property, or even all merchandise proceeding from the English manufactories or territory.” Another document, dated October 16, 1807, and taken from a London newspaper, purported to be a proclamation by the king of Great Britain, for recalling and prohibiting British seamen from service on board of ships of war belonging to any foreign state at enmity with that nation; declaring that all his majesty’s subjects who should voluntarily continue in, or thereafter enter, such service, would be guilty of high treason. Only these two papers were published as having accompanied the message.

The other two papers were, a letter from Mr. Armstrong, our minister at Paris, dated September 24, 1807, to the minister of foreign relations, asking whether the Berlin decree was “ intended, in any degree, to infract the obligations of the treaty subsisting between the United States and the French empire,” and Champagny’s answer of the 7th of October, confirming Napoleon’s construction of that decree; to which he added, that the decree of blockade had been issued eleven months; that the principal powers of Europe, so far from protesting against its provisions, had adopted them. They had perceived that, to render it effect-

tual, it must be complete; and it had "seemed easy to reconcile the measure with the observance of treaties, especially at a time when the infractions, by England, of the rights of all maritime powers, render their interests common, and tend to unite them in support of the same cause."

These two letters, though communicated with the message to congress, were, it is said, returned at the president's request, for the reason, as he alleged, that it was improper to publish them. What rendered their publication improper, is left to conjecture. They were, however, some months afterward, with a mass of other documents, laid before congress, without any intimation for what purpose. The political opponents of the president discovered in none of these documents any new facts "showing great and increasing dangers" calling for special legislation, much less an embargo. The British proclamation was presumed to have been intended merely to secure her own seamen. They therefore looked for the *motive* to the measure in a desire to appease France. Having at that time few vessels afloat, she would receive little injury from the embargo, while Great Britain, having command of the ocean, would be the principal sufferer. The letter of Champagny clearly showed the intention of forcing the United States into an acquiescence, if not an active coöperation, in the general war upon British commerce; and but a few weeks elapsed before the capture and condemnation of goods commenced, on the ground that they were the productions of Great Britain.

The federalists seem to have suspected, that the object of the partial suppression of Champagny's letter, was to prevent the idea that the embargo was intended to aid Bonaparte in crippling the commerce of Great Britain; Spain and Holland having already been brought, according to that letter, "to unite" with him "in support of the same cause." The suspicion of the president's subserviency to France, was subsequently strengthened by letters from our ministers in France and England, published in a pamphlet, entitled, "Further Suppressed Documents," which made its appearance about that time. One of these letters was from Mr. Armstrong to Mr. Madison, dated February 22, 1808. The following is an extract:

"I have come to the knowledge of two facts which I think sufficiently show the decided character of the emperor's policy with regard to us. These are, first, that in a council of administration held a few days past, when it was proposed to modify the decrees of November, 1806, and December 1807, (though the proposition was supported by the whole weight of the council,) he became highly indignant, and declared that these decrees should suffer no change, and that the Americans should be compelled to take the positive character of either allies or enemies; 2d, that on the 27th of January last, twelve days after Mr. Champagny's

written assurances that these decrees should work no change in the property sequestered, until our discussions with England were brought to a close, and seven days before he reported to me verbally these very assurances, the emperor had, by a special decision, confiscated two of our ships and their cargoes, (the Julius Henry and the Juniata,) for want merely of a document not required by any law or usage of the commerce in which they had been engaged. This act was taken, as I am informed, on a general report of sequestered cases amounting to one hundred and sixty, and which, at present prices, will yield upwards of one hundred millions of francs, a sum whose magnitude alone renders hopeless all attempts at saving it. Danes, Portuguese, and Americans, will be the principal sufferers. If I am right in supposing that the emperor has definitively taken his ground, I can not be wrong in concluding that *you will immediately take yours.*"

Another letter, said to have been suppressed, was from Mr. Pinkney, who, after he had received a copy of the president's message recommending the embargo, and of the act passed in pursuance of it, wrote to Mr. Madison from London, January 26, 1803, that he had given to the British government the explanations of this measure, as Mr. Madison had suggested, and that "Mr. Canning had received the explanations with great apparent satisfaction, and had expressed his most friendly disposition towards our country." And on his having made complaint to Mr. Canning, that, as an effect of the orders in council, "American vessels coming into British ports under warning, could not obtain any document to enable them to return to the United States, without hazard, in the event of its being found imprudent, either to deposit their cargoes, or to resume their original voyages; Mr. Canning took a note of what he had said, and assured him that whatever was necessary to give the facility in question, would be done without delay; adding, that it was their sincere wish to show, in every thing connected with the orders in council, which only necessity had compelled them to adopt, their anxiety to accommodate them, as far as was consistent with their object, to the feelings and interest of the American government and people."

The suppression of these documents was attributed to the fear that the people, seeing the contrast between the two documents, would disapprove the course of the government toward the two countries. Certain federalists, since the death of Mr. Jefferson and the publication of his writings, have referred to a letter from him to Robert L. Livingston, dated October 15, 1808, for a farther confirmation of the opinion, that the embargo was designed to benefit France and injure Great Britain. He says: "The explanation of his principles, given you by the French emperor, in conversation, is correct, as far as it goes. He does not wish

us to go to war with England, knowing we have no ships to carry on that war. To submit to pay England the tribute on our commerce which she demands, by her orders in council, would be to aid her in the war against him, and would give him just ground to declare war with us. He concludes, therefore, as every rational man must, that the embargo, the only remaining alternative, was a wise measure." He says in the same letter: "Had the emperor said that he condemned our vessels going voluntarily into his ports in breach of his municipal laws, we might have admitted it as rigorously legal, though not friendly. But his condemnation of vessels taken on the high seas by his privateers, and carried involuntarily into his ports, is justifiable by no law, *is piracy*, and this is the wrong we complain of against him." This conduct of France being as bad as that of Great Britain possibly could be, the federalists thought her equally deserving of retaliatory legislation.

The effect of the embargo was more or less severe upon the three countries. Through the British newspapers and other channels of information, the loss of the American market to English manufacturers, was represented as being most sensibly felt; and many laborers were consequently thrown out of employment. It would seem, however, that the extreme severity of the measure was not permanent in that country. Cotton was imported from Brazil, Egypt, and the East Indies, and grain from the Baltic, though at a great disadvantage. The revolt in Spain, caused by the attempt of Bonaparte to put one of his own family upon the throne of that kingdom, opened for the British a market in that country and in her South American colonies. Mr. Armstrong, in a letter of the 30th of August, 1808, also published in the "Suppressed Documents," says: "We have somewhat overrated the means of coercion of the two great belligerents to a course of justice. * * * Here it (the embargo) is not felt, and in England, (in the midst of the more interesting scenes of the day,) it is forgotten."

In the United States, commerce was almost annihilated; and murmurs of dissatisfaction prevailed throughout the country. In the New England states especially, where capital was invested chiefly in commercial enterprise, the loudest complaints were made during the whole period of its continuance. Not being permitted to export, agricultural labor was poorly rewarded; and manufactures were obtained, if obtained at all, at very high prices. Such was the height to which the disaffection at length arose in the eastern states, as to cause apprehensions that, if the embargo should be persisted in, it would meet with violent resistance; and those states would withdraw from the union.

To mitigate the rigor of this restrictive policy, congress, on the 1st of March 1809, passed an act, since called the *non-intercourse law*, by

which the embargo law was repealed, and all intercourse with Great Britain and France prohibited. But the act provided, that, if either nation should so revoke or modify her edicts as that they should cease to violate the neutral commerce of the United States—which fact the president should declare by proclamation—the trade suspended by this act and the embargo should be renewed with that nation.

Mr. Jefferson's term of office having expired, Mr. Madison was inaugurated as president on the 4th of March, 1809. He appointed Robert Smith, of Maryland, secretary of state; William Eustis, of Massachusetts, secretary of war; Paul Hamilton, of South Carolina, secretary of the navy; Albert Gallatin, of Pennsylvania, was continued secretary of the treasury; and Cesar A. Rodney, of Delaware, was continued attorney-general.

In April, Mr. Erskine, the British minister at Washington, represented that he was authorized by his government to say, that, if the United States would renew intercourse with Great Britain, the orders in council, so far as they affected the United States, would be repealed. Accordingly, the president issued a proclamation on the 19th of April, announcing that the commerce between the two countries would be renewed the 10th of June, on which day the British orders were to be withdrawn. The last congress having, in consequence of the critical state of public affairs, passed an act convening the new congress on the 22d of May, the latter met on the day appointed. In the message of the president, communicated on the 23d, the first subject to which he called their attention was, the "revision of our commercial laws, proper to adapt them to the arrangement which has taken place with Great Britain." The necessary laws were accordingly passed.

Intelligence, however, was soon after received, that the British government had disavowed the act of their minister as unauthorized; who admitted that he had exceeded the letter of his instructions: but he had been induced to do so from a conviction that he should be acting in conformity with his majesty's wishes. The president, therefore, on the 3d of August, issued another proclamation, declaring that the orders in council had not been withdrawn, and that, consequently, the acts which had been suspended were to be considered as in force. For having thus violated the instructions of his government, Mr. Erskine was recalled.

Mr. Francis James Jackson, successor to Mr. Erskine, arrived at Washington the ensuing autumn; and a correspondence with the secretary of state was soon commenced. This correspondence related to the question whether our government in negotiating with Mr. Erskine, had knowledge of the extent of his instructions—whether it did not know that he was not invested with full power to adjust the differences be-

tween the two nations. Mr. Erskine had been instructed to submit three conditions as the groundwork of an arrangement between them; and if these conditions should be officially recognized by the American government, "his majesty would lose no time in sending a minister fully empowered to consign them to a formal and regular treaty;" and it appeared from Mr. Erskine's correspondence that the three conditions had been submitted, although the instructions *in extenso* had not been communicated. They had, however, been read at length by Mr. Canning to Mr. Pinkney in London, and they had been made the basis of the official correspondence between Mr. Erskine and the secretary of state; from which, the British minister contended, our government must or might have known the nature and extent of the instructions. And his persistence in maintaining this point, after an explicit declaration by the secretary, that our government had not such knowledge, and that with such knowledge the arrangement would not have been made, was regarded as a reflection upon the government; and Mr. Jackson was informed that no farther communication would be received from him. He immediately (November, 1809,) retired to New York, where he resided until, in pursuance of the request of the president, he was recalled. No successor to Mr. Jackson was appointed until early in the year 1811.

In retaliation of the non-intercourse act, the Rambouillet decree was issued by Napoleon on the 23d of March, 1810. This decree, more sweeping in its operation on American property than any that had preceded it, extended back to the 20th of May, 1809. Every American vessel and cargo, which had since that time entered, or should thereafter enter into any ports of France or her colonies or of any country occupied by the French, was liable to be seized and sold. The aggressions of France were thus noticed by Mr. Monroe in an official dispatch: "The influence of France has been exerted to the injury of the United States, in all the countries to which her power has extended. In Spain, Holland, and Naples, it has been most sensibly felt. In each of these countries the vessels and cargoes of American merchants have been seized and confiscated, under various decrees, founded in different pretexts, none of which had even the semblance of right to support them."

The non-intercourse law having expired, congress, on the 1st of May, 1810, passed a new act, of a similar nature, which provided that, if either Great Britain or France should, before the 3d day of March, 1811, so revoke or modify her edicts as that they should cease to violate our neutral commerce, and if the other nation should not, within three months thereafter, do the same, then the act interdicting commercial intercourse, should be revived against the nation refusing to revoke.

On the 5th of August, 1810, the French minister of foreign affairs.

the duke of Cadore, informed our minister at Paris, Gen. Armstrong, that "the Bérin and Milan decrees were revoked, and would cease to have effect after the 1st of November following;" stating, as the reason for the revocation, that "the congress of the United States had retraced its steps, and had engaged to oppose the belligerent (Great Britain) which refused to acknowledge the rights of neutrals." He stated also, as conditions of the repeal of the decrees, "that the English shall revoke their orders in council, and renounce the new principles of blockade which they have wished to establish; or that the United States shall cause their rights to be respected by the English."

Regarding this note of the French minister as sufficient evidence of the repeal of the decrees, the president, on the 2d of November, issued a proclamation declaring the restrictions imposed by the act of the 1st of May to be removed as respected France and her dependencies. And on the 2d of March, 1811, congress passed an act, declaring these restrictions to be in force against Great Britain. It had been expected that the British government would revoke its orders in case the decrees should be repealed. This, however, it refused to do. This refusal was the occasion of a long controversy between the two governments, commenced at London and continued and concluded at Washington. The prominent features of the controversy, as presented by the correspondence between lord Wellesley and Mr. Pinkney, will appear from the following paragraphs:

The British government did not consider the notification of the repeal of the French decrees to be such as to justify the repealing of the orders in council. The repeal of the decrees was not absolute, but *conditional*—to take effect the 1st of November, *provided* Great Britain, before that time, should revoke her orders, and renounce the principles of blockade which France alleged to be new. The American government, it was intimated, had united with France in requiring of Great Britain a renunciation of these new principles. To what principles allusion is here made, appears from the Berlin decree, which states that Great Britain "extends the right of blockade to commercial *unfortified* towns, and to ports, harbors, and mouths of rivers, which, according to the principles and practice of all civilized nations, is only applicable to *fortified* places." Great Britain, on the contrary, asserted that the principles of blockade condemned by France were ancient, and established by the laws of maritime war acknowledged by all civilized nations. Notwithstanding, if France had conditioned the repeal of her decrees on the revocation of the British orders alone, that condition would have been fulfilled.

The American government disclaimed having demanded the renunciation of the principles of blockade condemned by France. It had simply

urged, that ports not actually blockaded by a present, adequate, stationary force, should not be shut against neutral trade in articles not contraband of war. The blockade of 1806 had not been thus maintained; and its annulment was therefore indispensable to the renewal of intercourse. It was also insisted by the American minister, that the French decrees were repealed, and no longer in operation; and that, as the foundation of the orders in council was gone, they ought to be repealed.

This subject was afterwards discussed at Washington by Mr. Foster and Monroe. The correspondence was opened by Mr. Foster on the 3d of July, 1811, of whose letter the following is an abstract:

The decree of Berlin was an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise, although she had not the means of imposing an actual blockade. The professed object of the decree was the destruction of all British commerce, through means entirely unsanctioned by the law of nations. Great Britain would have been justified in retaliating upon the enemy by a similar interdiction of all commerce with France, and with such other countries as might coöperate with her in her system of commercial hostility against Great Britain. The latter, however, instead of prohibiting the trade of neutrals with France, had prohibited such trade only as should not be carried on through Great Britain. This injury to neutral commerce had been foreseen and regretted; but it arose from the aggression of France, which had compelled Great Britain to retaliate in her own defense. The object of the orders in council was merely to counteract an attempt to crush British trade. Having rested the justification of her orders upon the existence of the decrees of Berlin and Milan, she had always declared her readiness to repeal those orders, whenever France should have repealed her decrees, and restored neutral commerce to the condition in which it stood before the promulgation of those decrees. France had asserted that the decree of Berlin was a measure of just retaliation for the previous aggression of Great Britain by her system of blockade, which France declared to be a violation of the law of nations, because it had been applied to *unfortified* towns and commercial ports, to harbors, and mouths of rivers; whereas the rights of blockade, she maintained, were limited to *fortresses* really invested by a sufficient force. She had also asserted that Great Britain had declared places in a state of blockade which the whole British force would be insufficient to blockade. Great Britain denied that the law of nations sanctioned the rule laid down by France, that no places but fortresses could be lawfully blockaded by sea.

It was admitted by Great Britain, that no blockade was justifiable or valid unless supported by an adequate force destined to maintain it, and

to expose to hazard all vessels attempting to evade its operation. The blockade of May, 1806, had not been notified by Mr. Fox, until he had satisfied himself that the board of admiralty had the means and would employ them, of watching the whole coast from Brest to the Elbe, and of enforcing the blockade. And it had been supported, both in intention and fact, until the time when the orders in council were issued. France had declared a blockade of all the ports and coasts of Great Britain and her dependencies, without assigning, or being able to assign any force to support it. America appeared to concur with France in asserting that Great Britain had been the original aggressor on neutral rights, and that the aggression consisted in the blockade of 1806; the objection to which rested on the supposition that it had not been duly maintained. But it appeared from the facts of the case, that neither under the objections urged by France, nor under those stated by the American government, could that blockade be deemed contrary to the law of nations. The orders in council were therefore founded on a just principle of defensive retaliation against the violation of the law of nations by France in the Berlin decree; and the blockade of May, 1806, was now included in the more extensive operation of the orders in council. The orders in council would not be continued after the effectual repeal of the decrees; nor would the blockade of 1806 continue after the repeal of the orders in council, unless sustained by a sufficient naval force.

The British minister insisted that the decrees had never been repealed. The French minister's note to Mr. Armstrong, dated the 5th of August, 1810, was called a "deceitful declaration." Its language was ambiguous. It had, however, been recently explained by the emperor himself, in a speech to certain deputies from Hamburg, Bremen, and Lubeck, in which he declared that "the Berlin and Milan decrees should be the public code of France, as long as England maintained her orders in council of 1806 and 1807." Certain official documents were also referred to as evidence that the decrees were yet in force. It had been said that the only two American ships taken under the Berlin and Milan decrees since the 1st of November, had been restored. They might have been restored for some other reason than that assigned; for, having been captured in plain contravention of the supposed revocation, why were they not restored immediately, instead of being detained in French ports, and subjected to so much difficulty in obtaining a release? The fears of the French navy, however, had prevented many cases of the kind on the ocean under the decrees of Berlin and Milan; but the most obnoxious and destructive parts of those decrees were exercised with full violence, not only in the ports of France, but in those of all other countries to which France thought she could commit injustice with impunity.

To the letters of Mr. Foster, Mr. Monroe replied on the 23d of July

The United States, he said, were little disposed to enter into the question concerning the priority of aggression by the two belligerents, as the aggression of neither could be justified by the prior aggression of the other. But as this had been made a plea in support of the orders in council, it might be remarked, that the blockade had not been maintained with the requisite strictness until it was comprised in and superseded by the orders of November of the following year, nor even until the French decree of the same year. But the orders in council went even beyond the plea, in extending their operation against the trade of the United States with nations which had not adopted the French decrees. The modification of the orders permitting neutrals to trade with the continent through Great Britain, was not viewed in a favorable light. The political pretension set up by it was incompatible with the sovereignty and independence of other states; and as a commercial regulation, it was destructive to neutral commerce. As an enemy, Great Britain could not trade with France; nor did France permit a neutral to come into her ports from Great Britain. Forcing our trade through Great Britain, had therefore the effect of depriving us of the market of her enemy for our productions, and of compelling their sale in Great Britain, where, by a surcharge of the market, their value was nearly destroyed.

The United States had observed the impartiality due to both parties as belligerents. They had borne, with equal indulgence, injuries from both. The offers presented to them by the late acts of our government, were made equally to both. The embargo and non-intercourse acts were peaceful measures. So also was the non-importation act; and the distinction which it now made between the belligerents, resulted from the compliance of one with the offer made to both, and which was still open to the compliance of the other. It had been stated that Great Britain would proceed *pari passu* with France in the revocation of her edicts. Our government maintained that France had revoked her decrees. Of this, the announcement of Champagny, the duke of Cadore, to Mr. Armstrong, was sufficient evidence. Two American vessels had been detained in French ports; but they had not been condemned. Both these vessels proceeded from a British port, and had on board some articles which were prohibited by the laws of France, or were such as could be admitted by the government alone. This appeared to be the only cause of the detention. If the detention of the vessels was owing to their passing from a British to a French port, or to the nature of their cargoes, it afforded no cause of complaint to Great Britain. The right of complaint belonged to the United States, whose neutral rights had been violated.

In the speech of the emperor to the deputies of the free cities of Ham-

burg, Bremen, and Lubeck, there was nothing to disprove the repeal of the decrees. He declared that the blockade of the British islands should cease when the British blockades should cease; and that the French blockade should cease in favor of those nations in whose favor Great Britain should revoke hers, or who should support their rights against her pretension, as France admitted the United States would do by enforcing the non-importation act. Every communication received from the French government was in accordance with the actual repeal of the Berlin and Milan decrees, in relation to the neutral commerce of the United States. But the best evidence of their ceasing to operate, was the want of evidence that they did operate.

It was unreasonable for Great Britain to require that the commerce of the continent should be restored to the state in which it stood prior to the date of the Berlin and Milan decrees, before she would revoke her orders in council. The laws of war governed the relations of Great Britain and France. The vessels of either taken by the other, were liable to confiscation. But even if no war existed, the United States could not open the continent to the commerce of Great Britain. They could not maintain such a claim in their own favor, though neutral; and how could Great Britain demand that they should obtain the favor for her, being an enemy? Every nation not restrained by treaty, has a right to regulate its trade with other nations as it may deem most conducive to its own interests.

It will be recollected that Mr. Monroe, in 1806, then minister at London, represented the blockade against France as favorable to our commercial interests. Mr. Foster, in one of his letters to Mr. Monroe, expressed his surprise that our government should now require the revocation of this order of blockade as a condition of the renewal of intercourse, the *motive* to which is insinuated in the following extract: "It was clearly proved that the blockade of May, 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles; and I have not heard that it was considered in a contrary light when notified as such to you by secretary Fox, nor *until it suited the views of France to endeavor to have it considered otherwise*. Why America took up the view the French government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England."

To which Mr. Monroe replied: "A controversy had taken place between our governments on a different topic, which was still depending. The British government had interfered with the trade between France and her allies in the produce of their colonies. The just claim of the United States was then a subject of negotiation; and your government

professing its willingness to make a satisfactory arrangement of it, issued the order which allowed the trade without making any concession as to the principle, reserving that for adjustment by treaty. It was in this light that I viewed, and in this sense that I represented that order to my government; and in no other did I make any comment on it."

Much importance seems to have been given to the question of the revocation of the French decrees. In addition to the facts already mentioned as evidence that they were still in force, another was, that American vessels engaged in the trade with France, were required to have licenses from the French consuls in the United States. If the decrees had been to any extent repealed, so far, at least, no licenses should be necessary; a license being given to allow what, but for that license, would be prohibited. Besides, no instrument by which the repeal had been effected, had yet appeared. If there were fair dealing in the transaction, no reason could be given for not producing it. It ought to be produced to show to what extent the decrees had been really repealed.

To this it was replied, that seizures might have been made upon other grounds than those which had been mentioned. Great Britain claimed the right to seize for other causes, and all nations admit it in cases of contraband of war. If, by the law of nations, one belligerent has a right to seize neutral property, in any case, the other belligerent has the same right. Another cause might be found in the well known practice in England of furnishing the officers of her vessels with counterfeit papers, purporting to be American, under which British vessels had acquired the benefits of neutrality. It had impaired the credit due to American documents, and ceased to afford adequate protection to our vessels. Against this practice our minister at London had made a formal representation, with an offer of the necessary information to detect and suppress it; but the communication was entirely disregarded.

The granting of licenses by the French government in certain instances, proved only that the trade with France in other instances was under restraint. The object of the Berlin and Milan decrees was not to prohibit the trade between the United States and France, but the trade of the United States with Great Britain, which was a violation of our neutral rights, and to prohibit the trade of Great Britain with the continent, with which the United States had nothing to do. If the object of these decrees had been to prohibit trade between the United States and France, Great Britain would have had no cause of complaint. And if the idea of retaliation on the part of Great Britain by her measures had been applicable, it would have been by prohibiting our trade with herself. To prohibit it with France, would not have been retaliation (like for like) but a coöperation.

Could that be really a revocation which depended upon certain conditions? It will be recollected, that it was to take effect the 1st of November, 1810, "*it being understood*, that, in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have attempted to establish; or that the United States shall cause their rights to be respected by the English;" that is to say, they must cause Great Britain to relinquish her blockades. The French government could scarcely have believed that these conditions would have been fulfilled. Doubts of a *bona fide* repeal were strengthened by the terms upon which the trade was opened. Our vessels were required to obtain licenses from French consuls in the United States, with which they might proceed to French ports with American produce; for which, however, they must take in exchange silks, wines, and other articles of French manufacture—two-thirds of the value of the cargo to consist of silks.

These restrictions upon our trade were the subject of bitter complaint and strong remonstrance by our government. Jonathan Russell, our chargé des affaires, at Paris, (in the place of Mr. Armstrong, returned,) in a letter to the secretary of state, said: "The tendency of this restriction, added to the dangers of a vigilant blockade, and to the exactions of an excessive tariff, was to annihilate all commercial intercourse between the two countries." In the same light was the subject viewed by Mr. Monroe, secretary of state. In a letter of the 26th of July 1811, to Mr. Barlow, then minister at Paris, he says: "The president expects that the commerce of the United States will be placed, in the ports of France, on such a footing as to afford to it a fair market. An arrangement to this effect was looked for immediately after the revocation of the decrees; but it appears from the documents in this department, that that was not the case: on the contrary, that our commerce has been subjected to the greatest discouragement, or rather to the most oppressive restraints; that the vessels which carried coffee, sugar, &c., &c., though sailing directly from the United States to a French port, were held in a state of sequestration, on the principle that the trade was prohibited, and that the importation of those articles was not only unlawful but criminal; that even those vessels which carried the unquestionable productions of the United States were exposed to great and expensive delays, to tedious investigations in unusual forms, and to exorbitant duties. In short, that the ordinary usages of commerce between friendly nations were abandoned."

Our merchants, Mr. Monroe said, had considered themselves invited to the ports of France by the repeal of the decrees; and the vexations and losses to which they had been unexpectedly subjected, were not only

unjust to them, but disrespectful to our government. If the ports of France and her allies were not opened to our commerce, on fair conditions, the revocation of the British orders would be of no avail. He complained also of the injustice of compelling our merchants to bring in return for their cargoes an equal amount in the produce or manufactures of that country, while French merchants enjoyed the liberty of selling their cargoes here for cash, and taking in return what they pleased. The system of carrying on the trade by licenses granted by French agents, ought to be annulled, and Mr. Barlow was instructed to tell the French government that the United States could not submit to it; and that if the consuls did not discontinue it, the president might find it necessary to revoke their exequaturs.

Mr. Monroe also reprehended the "unjustifiable aggression on the rights of the United States" by the French decrees, especially the Rambouillet decree, of March, 1810, which "made a sweep of all American property within the reach of the French power. * * * In Spain, Holland, and Naples, it has been most sensibly felt. In each of those countries, the vessels and cargoes of American merchants were seized and confiscated under various decrees founded in different pretexts, none of which had even the semblance of right to support them." And he mentions as the most atrocious of all the reprehensible acts of that government and its subjects, the burning of the vessels of our citizens at sea.

The annoyances to our commerce mentioned in the first of these extracts from Mr. Monroe's letter, were by many deemed inconsistent with a sincere revocation of the decrees; and, in connection with the fact that the repeal was never formally announced, were regarded by many as conclusive evidence that it was a mere pretense. In view of the outrages recited in the latter of these extracts, and which had been perpetrated long prior to the pretended repeal of the decrees, and for which no promise of compensation had been made, the inquiry naturally arises, whether the proclamation of president Madison, immediately suspending the non-intercourse law in regard to France, was not premature. It was the more mild and conciliatory policy pursued toward that country than toward Great Britain, and the greater apparent readiness to comply with her wishes, that furnished the principal ground of opposition to the administration during this long controversy. Insisting on the relinquishment of the British blockade, which was regarded as "highly satisfactory" before such relinquishment was made by Bonaparte a condition of the revocation of his decrees, and demanding the *unconditional* removal of this blockade as an obligation imposed by the *conditional* and doubtful repeal of those decrees, gave occasion for nine-tenths of the opposition.

A review of the entire history of this commercial warfare, justifies the conclusion, that neither Great Britain nor France avowed her real designs; that the British orders in council, instead of being intended as measures of retaliation against her enemy, their real object was to force a trade to France and the continent, generally through British ports, where a transit duty was levied for the British treasury. They were in fact spoken of by a leading member of parliament as "a system of self-defense, to prevent the commerce of America from coming into competition with the commerce of England." *Trade* with all the world, even with her enemies, seems to have been her object; and she wished to make our government the instrument of forcing France to receive her manufactures. Such an opinion is at least plausible. Niles said with some truth: "If Bonaparte were to grant a *license* for the purpose, certain London merchants could obtain leave to supply him even with *arms and ammunition*—so zealous are they for a trade with an enemy! The least relaxation of his 'continental system' is hailed with exultation and joy. They gladly send him what he pleases to admit, and accept in return almost anything he pleases to give them. This has been the practice for years; and yet some have said the orders in council were 'retaliatory' on the French decrees."

Equally manifest is it, from the reprehensible policy of France, in connection with the facts disclosed in the foregoing letters and documents, and the indispensable conditions of the repeal of her decrees, viz., that we should compel Great Britain to repeal her orders in council, that the object of France was to force us into a quarrel with her enemy, or, what is tantamount, into an alliance with herself.

In 1811, Robert Smith, secretary of state, in consequence of a disagreement between himself and the president on the subject of the repeal of the French decrees, and the consequent measures of the government, resigned his office, and was succeeded by Mr. Monroe. In an address to the public, giving the reasons for his resignation, are statements which may aid in forming an opinion as to the expediency of the policy of the administration. Mr. Smith, as will be seen, considered the decrees of France as not actually repealed, and, of course, the proclamation of the president, removing the non-intercourse with France, and the law of March 2, 1811, reenacting it against Great Britain, as unwarranted by facts.

Mr. Smith imputed to the president improper motives in procuring the passage of the non-intercourse act. Congress had considered his proclamation and the message recommending the enforcement of the act of May, 1810, as satisfactory evidence of the repeal of the French decrees. And Mr. S. notes it as a significant fact that the act wa

passed after the arrival of the new French minister. He also notices the letters from the state department, of June and July, 1810, containing the protestation which was communicated to the French government that "a satisfactory provision for restoring the property lately surprised and seized by the order, or at the instance of the French government, must be combined with a repeal of the French edicts, with a view to non-intercourse with Great Britain;" yet, *before* the passage of the act, the French minister, Serrurier, had officially communicated to our government the fixed determination of the government of France *not to restore the property that had been so seized*. "Moreover," adds Mr. Smith "from the information which had been received by Mr. Madison, prior to the date of the non-intercourse law, it was, at the time of passing it, clear to my mind, that the Berlin and Milan decrees had not been revoked, as had been declared by the proclamation."

Then follows a copy of the draft of a letter prepared (June, 1810) by Mr. S., to be sent to General Armstrong, after a letter had been received of the duke of Cadore, justifying the seizure of American property in the ports of France and her allies. This letter expressed the surprise of the president at the "disposition to represent the United States as the original aggressor." It considered the seizure of American property as "an act of violence scarcely less than an act of war," for which the duke's letter "had not furnished even a plausible palliation or a reasonable apology." To construe our resistance to the unlawful restrictions upon our commerce by France into "a cause of warlike reprisal," he called "a species of dictation." The French decrees, the letter said, "had assumed a prescriptive power over the policy of the United States, as reprehensible as the attempt of the British government to levy contributions on our trade was obnoxious. * * * Had France interdicted to our vessels all the ports within the sphere of her influence, and had she given a warning of equal duration with that given by our law, there would have been no cause of complaint on the part of the United States. The French government would not then have had the opportunity of exercising its power in a manner as contrary to the forms as to the spirit of justice, over the property of the citizens of the United States."

The letter says farther: "Let him withdraw or modify his decrees; let him restore the property of our citizens so unjustly seized, and a law of the United States exists which authorizes the president to promote the best possible understanding with France, and to impose a system of exclusion against the ships and merchandise of Great Britain in the event of her failing to conform to the same just terms of conciliation."

Mr. Smith expressed to Mr. Madison his apprehensions that the

emperor would not fulfill our just expectations. But Mr. M. was confident that the decrees would *bona fide* cease on the 1st of November, 1810, and our commercial relations with France be encumbered with no embarrassments whatever. Mr. S. told him he would converse with Turreau (the French minister) on the subject. In the subsequent correspondence, he says he "was greatly checked by the evident indications of utter indifference on the part of Mr. Madison. Instead of encouraging he absolutely discouraged the making of any animadversions upon Turreau's letter of December 12, 1810." The letter of Mr. S. was prepared after the receipt of a letter from the French minister of foreign affairs to our minister at Paris, in which the former had said: "The Americans can not hesitate as to the part which they are to take. They ought either to tear to pieces the act of their independence, and so become again, as before the revolution, the subjects of England. * * * Men without just political views, without honor, without energy, may allege that payment of the tribute imposed by England may be submitted to because it is light. * * * It will then be necessary to fight for interest, after having refused to fight for honor."

Notwithstanding this disrespectful and offensive language, and the outrages upon our neutral rights, Mr. Madison objected to the letter of Mr. Smith on account of its severity, and instead of the animadversions it contained, he directed the insertion of simply the following: "As the John Adams is daily expected, and as your further communications by her will better enable me to adapt to the actual state of our affairs of the French government, the observations proper to be made in relation to their seizure of our property, and to the letter of the duke of Cadore of the 14th of February, it is by the president deemed expedient not to make at this time any such animadversions. I can not, however, forbear informing *you*, that a high indignation is felt by the president, as well as by the public, at this act of violence on our property, and at the outrage, both in the language and in the matter, of the letter of the duke of Cadore, so justly portrayed in your note to him of the 10th of March." Mr. Smith calls attention to the fact, that the last sentence was addressed to Gen. Armstrong *personally*, and not intended for the French government; showing, he says, "that our executive had at that time, but just resolution enough to impart to his own minister the sentiments of indignation that had been here excited by the enormous outrage of the Rambouillet decree, and by the insulting audacity of the duke of Cadore's letter."

Congress, Mr. S. said, had been, during the preceding session, embarrassed as to the course to be taken with respect to our foreign relations, from the defect in the communications to them as to the views of the emperor. And when the arrival of Serrurier the French envoy, was

announced, congress suspended proceedings touching our foreign relations, in order to avail themselves of information from France since the 1st of November, the day fixed for the repeal of the decrees to take effect. Mr. Smith, to relieve the impatience of congress, prepared a letter to Serrurier, proposing the following questions :

"1st. Were the Berlin and Milan decrees revoked, in whole or in part, on the first day of last November? Or have they at any time posterior to that day been so revoked? Or have you instructions from your government to give this government any assurance or explanation in relation to the revocation or modification of those decrees?

"2d. Do the existing decrees of France admit into French ports, with or without licenses, American vessels laden with articles the produce of the United States, and under what regulations and conditions?

"3d. Do they admit into French ports, with or without licenses American vessels laden with articles *not* the produce of the United States, and under what regulations and conditions?

"4th. Do they permit American vessels, with or without licenses, to return from France to the United States, and upon what terms and conditions?

"5th. Is the importation into France of any articles, the produce of the United States, absolutely prohibited? And if so, what are the articles so prohibited? and especially are tobacco and cotton?

"6th. Have you instructions from your government to give to this government any assurance or explanation in relation to the American vessels and cargoes seized under the Rambouillet decree?"

The sending of this letter, however, was interdicted by the president, as being in his opinion inexpedient. This refusal of the president to permit these inquiries to be made, when the revocation of the decrees was so much questioned, and when congress was so desirous for information, was pronounced by his opponents to have been dictated either by a fear of Bonaparte, or by an undue regard for the French nation.

Before the arrival of Serrurier, and in anticipation of the expiration of the three months from the 1st of November, allowed to Great Britain by the conditional non-importation law of May, 1810, a bill was introduced into the house to revive, as to Great Britain, the non-importation provisions of the acts of 1809 and 1810. Action upon the bill had for some days been suspended for information daily expected by the new minister from France, when a motion was made to take up the bill for the purpose of adding a provision against the forfeiture of goods already shipped and arriving from British ports after the 2d of March, as it was presumed that goods had been ordered, and shipped before the president's proclamation was known. A proposition was made by Mr. Randolph to

relinquish the whole restrictive system. To which it was objected, that our pledges to France required its continuance. Notwithstanding it was known that two vessels had been seized under the Berlin and Milan decrees since the 1st of November, and notwithstanding Serrurier came before the passage of the bill, without instructions to make any explanations of the seizures, but *with* instructions to refuse indemnity for seizures under the Bayonne and Rambouillet decrees; the bill was passed.

CHAPTER XVII.

TWELFTH CONGRESS.—BRITISH PLOT.—THE WAR QUESTION IN CONGRESS.—DECLARATION OF WAR.

THE 12th congress, having been convened by proclamation before the regular day of meeting, commenced its session the 4th of November, 1811. The principal topics of the president's message were those of our relations with Great Britain and France and of the public defense. Although he spoke of the French decrees as having been repealed, he complained that the measure had not been followed by such others as were due to our reasonable claims and the amicable professions of the French government; but no proof had yet been given of an intention to repair the other wrongs done to the United States, and particularly to restore the great amount of American property seized and condemned under her edicts. The United States had also much reason to be dissatisfied with the rigorous and unexpected restrictions to which their trade with the French dominions had been subjected, and which, if not discontinued, would require at least corresponding restrictions on importations from France.

Great Britain was complained of for persisting in her refusal to revoke her orders in council "after the successive confirmations of the extinction of the French decrees, so far as they violated our neutral commerce." The orders had been, "when least to have been expected, put into more rigorous execution;" and it had been "communicated through the British envoy just arrived, that while the revocation of the edicts of France, as officially made known to the British government, was denied to have taken place, it was an indispensable condition of the repeal of the British orders, that commerce should be restored to a footing that would admit the productions and manufactures of Great Britain, when

owned by neutrals, into markets shut against them by her enemy; the United States being given to understand, that, in the mean time, a continuance of their non-importation act would lead to measures of retaliation."

On the subject of defense, the president said "the period had arrived which claimed from the legislative guardians of the national rights a system of more ample provision for maintaining them." And he considered it the duty of congress "to put the United States into an armor and an attitude demanded by the crisis, and corresponding with the national spirit and expectations."

On the 9th of March, 1812, the president communicated to congress certain documents disclosing a secret plot, on the part of Great Britain, to dismember the union, and to form the eastern states into a political connection with Great Britain.

In the winter of 1809, John Henry was employed by Sir James H. Craig, late governor-general of Canada, to undertake a secret mission to the United States with a view to this object. He was directed to proceed to Boston, from which place he was to keep governor Craig informed of "the state of public opinion with regard to their internal politics, and to the probability of a war with England; the comparative strength of the two great parties into which the country was divided; and the views and designs of that which might ultimately prevail." It was hoped, if the federalists should obtain sufficient influence to direct public opinion, they would, rather than submit to the continuance of the difficulties and distress to which they were then subject, exert their influence to bring about a separation from the general union.

Henry was advised not to appear as an avowed agent; but if he could obtain an intimacy with any of the leading men, he might insinuate, though with great caution, that if they should wish to enter into any communication with the British government, he might receive it and transmit it to him (Craig.) Henry proceeded through Vermont and New Hampshire to Boston, from which place most of his letters to Craig and his secretary, Ryland, were written. Having suggested in his last letter from this place, that, "in the present state of things in this country, his presence could contribute very little to the interest of Great Britain," he was recalled. It does not appear that Henry had conversation with any person in this country on the object of his mission.

As a compensation for his services, Craig had promised him an office worth a thousand pounds a year. The office not having been received, and a memorial to the British government on the subject having failed of securing relief, he made a disclosure of the plot to Mr. Monroe, secretary of state, for which the president paid him out of the secret

service fund, \$50,000. Henry's letter of disclosure to Mr. Monroe was dated the 20th of February, 1812, at Philadelphia, he having been at Washington and received his money. Mr. Madison did not communicate the disclosures to congress till the 9th of March, after Henry had sailed for Europe.

In the British parliament, on the 5th of May, lord Holland moved an address to the prince regent for the production of all the correspondence between Sir James Craig and the British government, relating to the employment of Henry. In the debate on this motion, some of the lords vindicated the conduct of Craig, who, when he had heard that the points in controversy between the two governments had been adjusted by Mr. Madison and Mr. Erskine, recalled Henry; which proved that his instructions had been given in contemplation of hostilities between the two countries. Others reprobated, as dishonorable, the endeavor to seduce American subjects from their allegiance to their own country, while the two governments were employed in amicable negotiation for peace. They thought the honor of their country, and satisfaction to the American government, required an absolute denial on the part of ministers, or a condemnation of the measure by parliament. It does not appear from this debate, that the scheme was known by the British government, until after Henry's return from the United States. The excitement produced by these disclosures soon subsided.

At an early period of the session, November 29, 1811, the committee on foreign relations, Peter B. Porter, of New York, chairman, made a report stating that France had repealed the Berlin and Milan decrees, so far as concerned the United States; and that Great Britain, "instead of retracting that unjustifiable attack on neutral rights, in which she professed to be only the reluctant follower of France, had advanced with bolder and continually advancing strides, demanding as a condition of her revoking her orders, that France and her allies should admit into their territories the products and manufactures of Great Britain." The committee reported resolutions recommending the increase of the military force; the fitting up of the vessels belonging to the navy and worthy of repair; and allowing merchant vessels to arm in self-defense. After considerable debate, in which Mr. Randolph took a prominent part against the resolutions, they were all adopted, December 19.

The debates on the bill carrying these resolutions into effect indicated the existence of strong parties in both houses in favor of war, although it is doubtful whether war was thus early intended by the administration. Certain it is, that there were many republicans who considered that a war at that time would be premature. Indeed, such was the reluctance of Mr. Madison to engage in a war—with whom Mr. Gall

tin, secretary of the treasury, concurred—that the congressional caucus to nominate a candidate for president at the approaching election, was for a time delayed, as the war party was unwilling to support him unless he should determine to go for war. Mr. Monroe was preferred by the most zealous friends of the war. In New York the war party was in favor of De Witt Clinton, who, notwithstanding the nomination of Mr. Madison, was subsequently nominated by the republican members of the legislature of that state.

The 1st of April, 1812, the president sent to congress a confidential message, recommending the immediate passage of an act laying a general embargo, for sixty days, on all vessels in port, and thereafter arriving. A bill for that purpose was forthwith introduced by Mr. Calhoun. In the course of the debate it was declared by Mr. Grundy and Mr. Clay, both ardent supporters of the bill, to be a preliminary war measure. The bill was passed the same day. It was amended in the senate so as to extend the period of its operation to ninety days; the amendment was concurred in by the house; and the bill was approved by the president on the 4th. This act was succeeded, on the 8th, by an act to increase the military force; on the 10th, by another authorizing a detachment of 100,000 men from the militia of the United States; and on the 14th, by an act to prohibit the exportation of specie or goods during the existence of the embargo.

On the 18th of May, the republican caucus was held. It was attended by 17 senators and 65 representatives. Mr. Madison having consented to recommend war, received the nomination unanimously. For vice-president, John Langdon of New Hampshire received 64 votes, and was nominated. He, however, declined the nomination on account of age and infirmity; and Elbridge Gerry, of Massachusetts, who had received sixteen votes in the caucus, was afterward substituted. A few days after the congressional nomination, De Witt Clinton was nominated by the republican members of the legislature of New York.

About the last of May, dispatches arrived from Mr. Barlow, our minister at Paris. Nothing definite had been accomplished by him. There was, however, some prospect, so he wrote, of the conclusion of a treaty of commerce, on principles of reciprocity; although a letter from him to the Duke of Bassano of some six weeks' later date (March 12, 1812), calling his attention to a case of plundering and burning an American vessel, complained that he was "obliged so frequently to call the attention of his excellency to such lawless depredations." In one of his letters to the secretary of state, he said Mr. Russell (at London) had written him again for additional proofs of the repeal of the decrees and he had sent him a list of vessels which had been restored by the

emperor. No encouragement had been given of indemnity for French spoliations on our commerce.

On the 1st of June, 1812, the president sent to both houses of congress a confidential message recommending war with Great Britain. In setting forth the grounds or causes of war, the impressment of our seamen was first mentioned. Persons sailing under the American flag had been seized and carried off, not in the exercise of a belligerent right founded on the law of nations against an enemy, but of a municipal prerogative over British subjects. Under the pretext of searching our vessels for her own subjects, thousands of American citizens had been taken, and forced to serve on British ships of war.

British cruisers, said the message, had also violated the rights and peace of our coasts. They hovered over and harassed our entering and departing commerce, and had wantonly spilled American blood within our own territorial jurisdiction. Our commerce had also been plundered under her pretended blockades, in the face of the definition, by her own government, of a legal blockade; viz., that "particular ports must be actually invested, and previous warning given to vessels bound to them not to enter." Next came the sweeping system of blockades under the name of orders in council, which had been moulded and managed to suit her political views, her commercial interests, and the avidity of British cruisers. Our remonstrances against the injustice of this innovation were met with the reply, that these orders had been reluctantly adopted as a necessary retaliation on the decrees of her enemy, which proclaimed a general blockade of the British isles, at a time when the force of that enemy dared not issue from his own ports. Great Britain had been reminded that her own prior unsupported blockades were a bar to this plea. And when the ground of this plea had been removed by the repeal of the decrees of her enemy prohibiting our trade with Great Britain, instead of a corresponding repeal of her orders, had avowed the determination to persist in them until the markets of her enemy should be opened to her products. And farther, she required, as a prerequisite to the repeal of her orders, a needless formality (an official publication or promulgation) to be observed in the repeal of the French decrees, and the extension of the repeal to other neutral nations. Thus it had become sufficiently certain, that the commerce of the United States was to be sacrificed, as interfering with a monopoly which Great Britain coveted for her own commerce and navigation. She carried on a war against the lawful commerce of a friend, that she might the better carry on a commerce with an enemy—a commerce polluted by the forgeries and perjuries which were for the most

part the only passports by which it could succeed ; (alluding to the forged papers granted to vessels under the American name.)

The president adverted to the arrangement made with Mr. Erskine, the British minister at Washington, in 1809. Had not the British government disavowed the act of its minister, a lasting reconciliation would probably have been effected. He considered that there was on the side of Great Britain a state of war against the United States, and on the side of the United States, a state of peace toward Great Britain. Had Great Britain revoked her blockades and orders, the way would have been opened for a general repeal of the belligerent edicts ; and if France had refused to repeal her decrees, the United States would have been justified in turning their measures exclusively against France.

The president also expressed the opinion, that the recent renewal of hostilities by the north-western Indians had been instigated by British influence.

Two days after the receipt of this message, the committee on foreign relations, through Mr. Calhoun, made a report to the house in favor of war. This report gave a review of the controversy, declaring the British blockade of May, 1806, to be the first aggression on our commerce ; and the first on the part of France was the decree of Berlin of November 21st, 1806. It embraced the same points as the message, to which it may be considered as an affirmative response.

At the time of the communication of the message, and of the preparation and presentation of the report, as also the proceedings on the bill reported by the committee declaring war, all of which was done with closed doors, a correspondence was going on between Mr. Foster and Mr. Monroe. With his letter of the 30th of May, Mr. Foster communicated a copy of a report of the French minister of foreign relations to king Napoleon, communicated to the conservative senate, at the sitting of March 10, 1812, and which Mr. F. considered as confirming the assertions of his government, that the Berlin and Milan decrees had never been revoked. The doctrines asserted in that report were pronounced repugnant to the law of nations. They were as follows :

“ The maritime rights of neutrals have been solemnly regulated by the treaty of Utrecht, which has become the common law of nations ; having been expressly renewed in all the subsequent treaties between the maritime powers.

“ The flag covers the property. Enemy’s property under a neutral flag, is neutral ; as neutral property under an enemy’s flag is enemy’s property. The only articles which the flag does not cover, are contraband articles ; and the only articles which are contraband, are arms and munitions of war.

"A visit of a neutral vessel by an armed vessel can only be made by a small number of men, the armed vessel keeping beyond the reach of cannon-shot.

"Every neutral vessel may trade from an enemy's port to an enemy's port, and from an enemy's port to a neutral port. The only ports excepted are those really blockaded; and the ports really blockaded are those which are invested, besieged, and in danger of being taken, and into which a merchant ship could not enter without danger."

This report also declared that the Milan decree *denationalized* every vessel which had submitted to English legislation, known to have touched at an English port, known to have paid a tribute to England, and which had thereby renounced the independence and the rights of its flag. All the merchandise of the commerce and of the industry of England were blockaded in the British isles; the continental system excluded them from the continent. And it declared farther, that "as long as the British orders in council are not revoked, and the principles of the treaty of Utrecht in relation to neutrals put in force, the decrees of Berlin ought to subsist for the powers who suffer their flag to be denationalized. The ports of the continent ought to be opened neither to denationalized flags nor to English merchandise."

Mr. Monroe said, in reply, that this report of the French minister evidently referred to the continental system, by the means relied on to enforce it; it afforded no proof that the French government intended by it to violate its engagement to the United States, as to the repeal of the decrees.

Letters also passed between these gentlemen on the subject of impressed seamen. Mr. Foster cited cases in which British seamen had been encouraged to desert his majesty's service, and of others who had been detained against their will on board American ships of war; but says his sovereign (then the prince regent) would continue to give the most positive orders against the detention of American citizens on board his majesty's ships.

Mr. Monroe objected to the attempt to show the analogy between the American practice and the British. They were quite different. The regulations of the United States prohibited the enlistment of aliens into their vessels of war. No such regulations existed on the side of Great Britain. Enlistments by force or impressment were contrary to the laws of the United States. This mode of procuring crews from public ships was practiced by Great Britain, not only within her legal jurisdiction, but was extended to foreign vessels on the high seas. As to the orders against the detention of American citizens on board British ships of war, they would afford no adequate remedy. Orders should be given

against *impressment* itself; and nothing short of this would be effectual, or prove a disposition to do justice or promote a good understanding between the two countries.

On the 18th of June, 1812, the injunction of secrecy having been removed from the proceedings of congress, a DECLARATION OF WAR WAS announced, and the message of the president, and the report or manifesto of the committee on foreign relations was published, with the act declaring the war. On the final passage of the bill, the vote in the senate was 19 to 13; in the house, 79 to 49.

Before the adjournment, the federal members of the house of representatives published an address to their constituents, on the subject of the war with Great Britain. The minority complain that they had been called into secret session on the most interesting of all public relations, without any reason for secrecy. No fact not previously known was before the house, and no reason for secrecy existed, unless it was found in the apprehension of the effect of public debate on public opinion, or of public opinion on the result of the vote.

The object of waging war and invading Canada, the address said, had long been openly avowed, while, as was well known, our army and navy were inadequate for successful invasion, and our fortifications were insufficient for the security of our seaboard. Yet the people had been kept in ignorance of the progress of measures until the purposes of the administration were consummated, and the fate of the country was sealed. The demand of the minority for open doors having been refused, they declined discussion, convinced that, in the house, all argument with closed doors was hopeless.

In speaking of the alleged causes of war, on the subject of impressment, they remarked: "The government of the United States asserts the broad principle, that the flag of their merchant vessels shall protect the mariners. The privilege is claimed, although every person on board except the captain may be an alien. The British government asserts that the allegiance of their subjects is inalienable, in time of war, and that their seamen, found on the sea, the common highway of nations, shall not be protected by the flag of private merchant vessels." This doctrine, they said, was common to all the governments of Europe. France, as well as England, claimed, in time of war, the services of her subjects. Both, by decrees, forbid their entering into foreign employ: both recall them by proclamation. None doubted that, in the present state of the French marine, if American merchant vessels were met at sea, having French seamen on board, France would take them. Did any man believe that the United States would go to war with France on this account? They considered impressment to be a subject of arrange-

ment rather than of war. It had been so treated by every former administration.

England, they said, had disavowed the right of impressment as it respected our native citizens; and an arrangement, it was believed, might be made in regard to such as were naturalized. Indeed, Mr. King, when minister to England, had obtained from the British government a disavowal of the right to impress American seamen, naturalized as well as native, on the high seas. An arrangement had been advanced nearly to a conclusion, upon this basis, and was broken off only because Great Britain insisted on retaining the right on the narrow seas. Mr. King was of the opinion, however, "that with more time than was left him for the experiment, the objection might have been overcome." Mr. Madison, it appeared, was himself of the same opinion. In his letters to Messrs. Monroe and Pinkney, in February, 1807, he says: "I take it for granted that you have not failed to make due use of the arrangement concerted by Mr. King with lord Hawkesbury in the year 1802, for settling the question of impressment. On that occasion, and under that administration, the British principle was fairly renounced in favor of the right of our flag, lord Hawkesbury having agreed to prohibit impressment on the 'high seas,' and lord Vincents requiring no more than an exception of the narrow seas, an exception resting on the obsolete claim of Great Britain to some peculiar dominion over them."

It appeared farther, that the British ministry had called for an interview with Messrs. Monroe and Pinkney on this topic, at which they had gone so far as to offer, on the part of Great Britain, to pass laws making it penal for British commanders to impress American citizens on board of American vessels on the high seas, if America could pass a law making it penal for the officers of the United States to grant certificates of citizenship to British subjects. And Mr. Monroe, after his return, in a letter from Richmond to Mr. Madison, dated February 28, 1808, said: "I have, on the contrary, always believed, and still do believe, that the ground on which that interest (impressment) was placed by the paper of the British commissioners of the 8th of November, 1806, and the explanation which accompanied it, was both honorable and advantageous to the United States; that it contained a concession in their favor, on the part of Great Britain, on the great principle in contestation, never before made by a formal and obligatory act of their government, which was highly favorable to their interest." In view of these facts, the minority thought this subject furnished no proper cause of war.

They undertook to show also, that the blockade of 1806, which had been made a specific ground of complaint, and a cause of war, was regarded at first as favorable to the United States. As the manner in

which the American and French governments, in their official papers, had spoken of the order of blockade, was vague and indeterminate, and calculated to mislead, they presented the following facts: In August, 1804, the British established a blockade at the entrance of the French ports from Ostend to the Seine. The nearness of these ports to the British coasts, and the absence of all complaint, authorized the belief that the blockade was lawful, and enforced according to the usage of nations. On the 16th of May, 1806, the English secretary of state, Mr. Fox, notified our minister at London, Mr. Monroe, that the British government had thought fit to direct measures to be taken for the blockade of the coasts, rivers, and ports, from the river Elbe to the river Brest, both inclusive. The order, however, declared "that such blockade shall not prevent neutral vessels laden with goods not being the property of his majesty's enemies, and not contraband of war, from approaching, entering, or leaving the said coasts, rivers, and ports, except those from Ostend to the Seine, already in a state of rigorous blockade, and which are to be so continued;" and provided that the vessels entering had not been laden at an enemy's port, and the vessels departing were not destined to an enemy's port.

Hence it appeared, that the order did not actually extend the blockade; and instead of operating against our trade, it was considered at the time as designed to favor it, as the minority infer from the letters of Monroe to Mr. Madison. On the 17th of May, 1806, he wrote, that the order of blockade was "couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless it takes it from many ports already blockaded; indeed from all east of Ostend, and west of the Seine, except in articles contraband of war and enemy's property, which are seizable without blockade. And in like form of exception, . . . it admits the trade of neutrals within the same limits to be free in the productions of enemies' colonies, in every but the direct route, between the colony and the parent country;" adding, "it can not be doubted that the note was drawn by the government in reference to the question; and if intended as the foundation of a treaty, must be viewed in a favorable light." And on the 20th of May, he wrote, that he had been "strengthened in the opinion, that the order of the 16th was drawn with a view to the question of our trade with the enemies' colonies, and that it promises to be highly satisfactory to our commercial interest"

In reference to this blockade, the minority said, as Mr. Foster had said to Mr. Monroe, that "it had never been made the subject of complaint by the American government, until after the first order in council; and indeed not until the 1st of May, 1810, and until after the

American government was apprised of the ground which it was the will of France should be taken on the subject." In proof of this, they referred to the offers made during the administration of Mr. Jefferson for the discontinuance of the embargo as it related to Great Britain; none of which required the repeal of the blockade of May, 1806. Nor was it required by the arrangement made with Mr. Erskine during the administration of Mr. Madison. It did not appear to be of sufficient importance to engage even a thought; yet, under the act of May, 1810, it is made by our cabinet a *sine qua non*—an indispensable requisite!

The British orders in council, were the remaining cause of war. They had heretofore been considered by our government in connection with the French decrees. Certainly, both formed a system subversive of neutral rights; yet the undersigned could not persuade themselves that the orders in council, as they now existed, and with their present effect and operation, justified the selection of Great Britain as our enemy, and rendered necessary a declaration of unqualified war.

It was contended that the Berlin and Milan decrees had never been revoked. The condition on which the non-intercourse, according to the act of the 1st of May, 1810, was to be revived against Great Britain, was, on the part of France, *an effectual revocation of her decrees*. The president was bound to require *evidence* of such revocation. A revocation to be effectual, must require, that the wrongs done to the commerce of the United States by the operation of the decrees should be stopped. According to the address, the release of vessels, after capture and detention, was not evidence of the repeal. The *authority to capture*, was the very essence of the wrong, and must be annulled, before the decrees could be considered effectually revoked. The letter of the duke of Cadore of the 5th of August, 1810, was no annulment of this authority. The imperial act which gave the authority, required, to annul it, another imperial act equally formal and solemn. This subject was pursued at great length, with a view to prove that these decrees had never been revoked.

Was there any thing in the friendship or commerce of France, they asked, very interesting or alluring for entering into hostilities? Of our exports during the last year, amounting to upwards of 45 millions of dollars, a little more than one million in value was exported to France. France was now deprived of all her foreign colonies; and our trade to that country had been, for several years past, and before the date of the orders in council, comparatively inconsiderable.

"But," says the address, "it is said that war is demanded by honor. Is national honor a principle which thirsts after vengeance, and is appeased only by blood? which, trampling on the hopes of man, and spurning the laws of God, untaught by what is past, and careless of what is to come

precipitates itself into any folly or madness, to gratify a selfish vanity, or to satiate some unhallowed rage? If honor demands a war with England, what opiate lulls that honor to sleep over the wrongs done us by France? On land, robberies, seizures, imprisonments by French authority; at sea, pillage, sinkings, burnings under French orders. These are notorious. Are they unfelt because they are French? Is any alleviation to be found in the correspondence and humiliations of the present minister plenipotentiary of the United States at the French court? In his communications to our government, as before the public, where is the cause for selecting France as the friend of our country, and England as the enemy?" * * *

"At a crisis of the world such as the present, and under impressions such as these, the undersigned could not consider the war into which the United States have, in secret, been precipitated, as necessary, or required by any moral duty, or any political expediency."

This address was signed by 34 members of the house, all *federalists*; of whom there were, from New Hampshire, 1; Massachusetts, 8; Connecticut 7; Rhode Island, 2; Vermont, 1; New York, 4; Pennsylvania, 1; Delaware, 1; Maryland, 3; Virginia, 4; North Carolina, 2. There were only two federalists in the house who did not sign the address: and their names are not among the yeas or nays on the passage of the war act. Of the republicans who voted against war, there were from Massachusetts, 1; New York, 7; New Jersey, 4; Virginia, (Randolph) 1; Pennsylvania, 1; North Carolina, 1.

Although all the federal members of the house, and nearly the whole federal party, were opposed to the declaration of war; yet many of the party, after war had been declared, gave it their support as a measure of the country. Among its federal supporters of distinction, was ex-president John Adams.

A few days before the declaration of war, an arrival from Europe brought a copy of a decree of Napoleon, repealing the Berlin and Milan decrees. This decree of repeal was dated April 28, 1811, and was in the following words:

"On the report of our minister for foreign affairs.

"Being informed of the law of the 2d of March, 1811, by which the congress of the United States has decreed the exemption of the provisions of the act of non-intercourse, which interdicts the entry into American ports, of the ships and the merchandise of Great Britain, her colonies and dependencies:

"Considering that the said law is an act of resistance to the arbitrary pretensions advanced by the British orders in council, and a formal refusal to sanction a system hostile to the independence of neutral powers and of their flags.

“ We have decreed, and do decree, as follows :

“ The decrees of Berlin and Milan are definitely (from the 1st of November last,) considered as no longer in force, as far as regards American vessels.”

A powerful incentive to the publication of this decree, is presumed to have been, that the British government was making use of the duke of Bassano's report of the 10th of March, to prove the non-repeal of the Berlin and Milan decrees. And probably this fact aided our minister, Mr. Barlow, in extracting this decree from the emperor. It was strongly suspected, that no act of repeal had taken place previously to the publication of the above. This suspicion was justified by the fact, that neither Mr. Russell, who was chargè at Paris at the time the decree purports to have been issued, nor Mr. Serrurier, the French minister at Washington, had any information of it, as they both asserted against the declaration of Bassano to Mr. Barlow that it had been communicated to both of them. Its bearing date nearly a year before its appearance, afforded, of itself, strong ground for doubting its preëxistence.

Early in August intelligence was received of the *revocation of the British orders in council*. The prince regent, in the name and on behalf of the king, had, on the 21st of April, 1812, issued a declaration, “ That if, at any time thereafter, the Berlin and Milan decrees should, by some authentic act of the French government, publicly promulgated, be unconditionally repealed, the orders in council of the 7th of January, 1807, and of the 26th of April, 1809, should thenceforth be wholly revoked.” Mr. Russell, our chargè at London, having, on the 21st of May, transmitted to lord Castlereagh a copy of the French decree of repeal, the prince regent, on the 23d of June, publicly declared the orders to be revoked, so far as might regard American vessels and their cargoes being American property, from the 1st day of August next. He stated, however, that he did not consider the conditions of his order in April as satisfied by the French decree, but he was “ disposed to take such measures as might tend to reëstablish the intercourse between the neutral and belligerent nations upon its accustomed principles.” The revocation was of course conditioned upon the repeal, by the United States, of the non-intercourse acts by which British vessels were excluded from our ports.

This act of the British government was caused by the complaints of the manufacturers, who had begun to feel the effects of the renewal of our non-importation act, and in whose behalf some movement had been made in parliament, and by the favor which the measure received from the new ministry; there having been an entire change in that branch of the British government.

Soon after the declaration of war, Mr. Foster took his departure, bearing a letter from Mr. Monroe to Mr. Russell, charg  at London, authorizing him to propose to the British government a suspension of hostilities with a view to an adjustment of all difficulties between the two countries. The conditions of the proposed armistice were, that the orders in council should be revoked, and no illegal blockades substituted for them; and that orders should be given to discontinue the impressment of seamen from our vessels, and to restore those already impressed. As an inducement to the British government to discontinue impressments, assurances might be given, that a law would be passed by congress to prohibit the employment of British seamen in our vessels, public or private; a similar prohibition to be enacted by Great Britain against the employment of American citizens. These reciprocal enactments would operate most in favor of Great Britain, as few of our seamen voluntarily entered the British service.

In a subsequent letter of the 27th of July, Mr. Monroe authorized Mr. Russell to modify the propositions so as to free them still farther from reasonable objection on the part of Great Britain, by dispensing with the former condition of an express previous stipulation on the subject of impressment. That is, he might agree, in general terms, in order to allow full time for a general adjustment of difficulties, that an armistice should take place for that purpose, on the simple condition that commissioners should be appointed by each party, with power to form a treaty providing to secure the seamen of each from being taken or employed in the service of the other, and to regulate commerce and all other interesting questions between them.

At Halifax, on his way home, Mr. Foster received dispatches from his government, dated about the 17th of June, and directed to him at Washington, but which he there opened, informing him of the intended revocation of the orders in council, to take effect on the 1st of August. Presuming that the object of communicating this intention was to prevent or stop hostilities, he sent the dispatches to Mr. Baker, secretary to the British legation, still at Washington, and requested him to communicate to our government the contemplated change of policy on the part of Great Britain, and to propose a suspension of hostilities. Having had a conversation at Halifax with vice-admiral Sawyer, naval commander, and sir John Sherbroke, lieutenant-governor, he was authorized by them to say to Mr. Baker, that decisions of cases of capture of American vessels should be suspended. He had not seen sir George Provost, the governor-in-chief, and captain-general of the land forces; but he had written to him by express, and did not doubt his agreeing to the arrangement. Our government, however, declined the proposition, alleging as a reason, that

it was not probable, even if it was less liable to insuperable difficulties, that it could have any material effect sooner than the arrangement proposed through Mr. Russell, if it should be favorably received.

These facts were communicated by letters of the 9th and 10th of August, to Mr. Russell, by Mr. Graham, acting as secretary in the temporary absence of Mr. Monroe, who, after his return, wrote to Mr. Russell, detailing at length the principal reasons against accepting the proposition. 1st. The president had no power to suspend judicial proceedings on prizes. 2d. The proposition did not proceed from the British government, and might not be approved by it. 3d. No security was proposed against the Indians, who had engaged in the war on the side of Great Britain. 4th. The proposition was not equal, as it would restrain us from attacking Canada, and give Great-Britain time to augment her forces there. 5th. As a principal object of the war was redress for impressments, an agreement to suspend hostilities, even before the British government was heard from, might be considered a relinquishment of that claim. 6th. The instructions given him (Mr. Russell,) if met by the British government, might have already produced the same result in a greater extent and more satisfactory form. He also stated several points in which the declaration itself was objectionable.

In September, Admiral Warren, who was sent out as commander of the British naval forces on the American coasts, arrived at Halifax. He had power also to propose an armistice, and negotiate an arrangement respecting the repeal of our non-intercourse regulations. The president was unwilling to suspend hostilities, without an agreement on the part of Great Britain to suspend her impressments; and as Warren had no power on that subject, the proposals for an armistice were rejected. As the propositions through Mr. Russell to the British government were also rejected, the war was prosecuted. And, as the orders in council had been conditionally revoked, the only remaining grievance to be redressed by war, was that of impressment—a grievance, however, of great magnitude. The number of impressments has never been accurately ascertained. There were recorded in the state department, more than six thousand cases; which, it was supposed, was scarcely half the number actually impressed. Making all due allowance for cases of persons falsely claiming to be American citizens, the number must still have been very great. Many of them were doomed to a cruel service on board British vessels until they could prove themselves Americans, which, while in such condition, was in most cases impossible. And when at last war took place between the United States and Great Britain, they were compelled to fight against their own country, or suffer imprisonment. Thousands, it is said, did actually choose the latter alternative

the most of whom, unable to procure the necessary proof of their origin, were not liberated till after the restoration of peace. The name of Dartmoor became notorious from the number confined within its prison.

After the declaration of war, and before congress adjourned, acts having reference to the war were passed, for the more perfect organization of the army; to authorize the issuing of treasury notes; for imposing additional duties on imports; to make farther appropriation for the defense of the maritime frontier and for the support of the navy; for the safe keeping and accommodation of prisoners of war; for prohibiting American vessels from trading with enemies of the United States; besides several others. An act had passed in March, authorizing a loan not exceeding \$11,000,000. An act was also passed before adjournment, fixing the 1st Monday of November for the next meeting of congress.

An act having been passed at the previous session of congress to enable the people of the territory of Orleans to form a constitution and state government, and for the admission of such state into the union; an act was passed at the present session, declaring the state to be admitted into the union, with the name of Louisiana. And by another act, the name of the Louisiana territory was changed to that of Missouri, and its government to a territorial government of the first class, the legislature being chosen by the people.

CHAPTER XVIII.

REELECTION OF MR. MADISON.—CONTROVERSY WITH MASSACHUSETTS AND CONNECTICUT.—RUSSIA OFFERS TO MEDIATE.—DUTIES AND TAXES.—EMBARGO.—ITS SUDDEN REPEAL.—OFFER TO NEGOTIATE—ACCEPTED.—CAPITOL BURNED.—HARTFORD COVENTION.—BANK PROJECTS.

THE presidential election of 1812, resulted in the election of a majority of electors in favor of Messrs. Madison and Gerry for president and vice-president; the former receiving 128 votes and the latter 131. DeWitt Clinton received 89 votes for president, and Jared Ingersoll, of Pennsylvania, 86 for vice-president. They were supported by the republican party of the state of New York, and the federal party generally. Mr. Clinton was adopted by a general convention of the latter party, in which eleven states were represented; all of those north of the Potomac, with South Carolina. Though a republican, he was nominated

with a view of defeating Mr. Madison, which the reduced strength of the federal party had rendered hopeless with a candidate of their own politics. Mr. Ingersoll was a moderate federalist.

The 2nd session of the 12th congress commenced on the 2nd day of November, 1812. The leading topics of the message were those relating to the war. He recapitulated the important events which had occurred since the last session; presented the present condition of the country; and recommended farther measures for the prosecution of the war. Among the subjects noticed in the message, was the refusal of the governors of Massachusetts and Connecticut to furnish the required detachments of militia toward the defense of the maritime frontier. One of the grounds of this refusal was, that, in their opinion, there was at that time no invasion, nor any danger of one, to render a call for the militia necessary. The denseness of the population along the sea-coast, especially of Massachusetts, was such as to admit a speedy assembling of her well disciplined militia at any point of danger; and the governor deemed it unnecessary either to take them from their employments, or to incur the expense of supporting an unemployed military force. Assuming the right to judge of the existence of an emergency which should justify such a call, they refused compliance. The legislature of Connecticut passed an act to raise a provisional army of 2,600 men for its own defense.

An act was passed at this session authorizing a loan of sixteen millions of dollars; and an act authorizing the issue of treasury notes not exceeding the sum of five millions.

With the expectation that the suspension of the non-importation act would, according to its own provisions, follow the repeal of the orders in council, American vessels in the ports of Great Britain at the time of the repeal, were loaded with British goods, which on arrival in our ports became forfeited. This exportation of goods from Great Britain continued for several weeks, encouraged by the opinion of Mr. Russell, American chargè at London, that the non-importation law would cease to operate. Eighteen millions' worth of goods which had during this time left England, was illegally brought into our ports. These goods, instead of being detained by the government, were delivered to the claimants, on their giving bonds for the amount of their value. An act was passed, mainly through the efforts of Mr. Cheves and Mr. Calhoun, though opposed by leading men of their own party, remitting the forfeitures under the act. The vote in the house on the bill was 64 to 61. The federal members, objecting to certain provisions of the bill, voted against it.

By another act, the president was authorized to cause ample retalia-

tion to be made, according to the laws and usages of war among civilized nations, for any violations of such laws and usages which should be committed on American citizens by persons acting under British authority, or by Indians in alliance with the British government.

An act was passed, near the close of the session, by which the next congress was required to meet on the 4th Monday of May.

On the 3d of March, 1813, Mr. Madison's first term expired; and on the next day, he was again inaugurated.

Mr. Adams was at this time, and had been since 1809, minister at St. Petersburg. With his approbation, it is said, the Russian emperor, Alexander, tendered his offices as mediator between the two governments. The offer was communicated to our government early in March, 1813, through Mr. Daschkoff, the Russian minister at Washington: whereupon Mr. Madison immediately nominated Mr. Gallatin, then secretary of the treasury, and Mr. Bayard, of Delaware, senator in congress, as ministers, with whom Mr. Adams was to be associated, to negotiate a peace with Great Britain. Both the former gentlemen were, it is said, in favor of peace. Mr. Crawford, senator from Georgia, was appointed minister to France, in place of Mr. Barlow deceased.

Congress, pursuant to the act of the preceding session, met on the 24th day of May, 1813. The nomination of commissioners to negotiate peace with Great Britain was at an early day submitted to the senate. The nomination of Mr. Adams and Mr. Bayard was confirmed, but that of Mr. Gallatin was rejected, for the reason that he still held the office of secretary of the treasury. The nomination of Mr. Russell as minister to Sweden, was also rejected.

In his message to congress, the president noticed with satisfaction the proffer of mediation by the Russian emperor, and stated that it had been promptly accepted; and he presumed from the sentiments of Great Britain toward that sovereign, that it had also been accepted by the British government.

The principal subject of the message was the increase of the revenue, which was necessary to meet the demands upon the treasury the coming year. To provide for this object appears to have been the chief design of this early meeting of the new congress. Several acts for the purpose were passed. By one of these acts, a direct tax of three millions was levied on real estate and slaves. Another imposed a duty of four cents a pound on all sugar refined within the United States. Another laid a duty on pleasure carriages: on every coach, \$20 a year; on a chariot or post-chaise, \$17; on a phaeton or coachee, \$10; on a four-wheel carriage hanging on steel or iron springs, \$7; on a four-wheel carriage on wooden springs, and a two-wheel carriage on iron or steel springs, \$4;

and on every other four or two wheel carriage, \$2. An act was also passed laying duties on licenses to distillers of spirituous liquors. The duty was laid per gallon, not according to the number of gallons manufactured, but according to the capacity of the still, including the head thereof. On a license for two weeks, 9 cents a gallon; the proportional duty per gallon slightly diminishing for a longer term, being for six months 70 cents a gallon. A higher duty was imposed if the spirits were manufactured from foreign materials. A duty of one per cent. was laid on sales at auction. Duties were also laid on licenses to retailers of wines, spirituous liquors, and foreign merchandise. The duty annually on a license was from \$10 to \$25, being graduated according to the number of families within a given territory; and being also less or more if only a part or if all the different classes of goods were to be sold. Duties were also laid on stamps; viz., on bank notes or bills, one per cent.; on bonds or promissory notes discounted by banks, and on bills of exchange, certain fixed sums, according to the amount specified in the obligation or writing. And the secretary of the treasury was authorized to compound with the banks for one and a half per cent. on their annual dividends, in lieu of the stamp duty. From these duties two millions were expected. The duties and taxes imposed by the preceding acts were to begin with the year 1814. An additional sum of \$7,500,000 was authorized to be raised by loan.

An act was passed at this session, allowing a bounty of \$25 to the owners, officers and crews of private armed vessels, (privateers,) for each prisoner captured and brought into port. Also an act prohibiting our citizens from obtaining or using any license granted by the government of Great Britain for the protection of any vessel or merchandise, under a penalty of double the value of the ship and merchandise, besides being liable to be adjudged guilty of a misdemeanor, and fined not exceeding \$5,000, nor less than \$1,000.

The 2d session of the 13th congress commenced on the 6th of December, 1813. An account of the progress of the war, and the state of the finances, constituted the burden of the president's message. He made mention also of the unexpected refusal of Great Britain to accept the mediation of Russia.

On the 9th of December, he communicated a confidential message recommending another embargo. Supplies of the most essential kind, he said, were finding their way to British ports and armies; and British goods were coming into our ports, in contravention of the non-importation act, often in British vessels disguised as neutrals by false colors and papers. To prevent these and several other evils, an embargo was deemed necessary. An act, very stringent in its provisions, was accord-

ingly passed in secret session. Such was the operation of this act upon coasting vessels, that it was soon found necessary to pass an act permitting the return to the ports where they were owned, of such of these vessels as were in other districts at the time of the passage of the embargo act.

The issue of treasury notes to the amount of five millions, and a loan of twenty-five millions, were authorized; and several acts were also passed for the increase of the army and the support of the navy.

Before the close of the session, an act was unexpectedly passed, repealing both the recent embargo act, and the non-importation act by which the importation of British goods had been prohibited; except so far as it affected property belonging to an enemy at the time of its importation, which was still to be excluded. This repeal was enacted in pursuance of a recommendation of the president in a special message of the 31st of May, stating as reasons, "the mutual interests which the United States and the foreign nations in amity with them have in a liberal commercial intercourse, and the extensive changes favorable thereto which have recently taken place." The "changes" here referred to had been produced by recent occurrences in Europe. The allied powers had offered peace to France, and negotiations for that object had commenced; but they had been abruptly terminated. The allied armies had entered France; and, as a consequence, Bonaparte's "continental system" had been ripped up, and trade with the continent reopened to the northern nations of Europe, including Great Britain. This unexpected *repeal* of French decrees and British orders, had dictated the policy recommended by the president.

On the 4th of April, Mr. Calhoun, from the committee on foreign relations, made a brief report, accompanied by a bill for the repeal of the acts mentioned. The reasons assigned by the report for this measure, were, in substance, that our commercial intercourse with the friendly powers of the world having been obstructed, the bearing of our restrictive measures had been chiefly confined to our enemies. But there was now a prospect of an extended commerce with the former, which, it was presumed, they would find an equal interest and disposition to promote. Denmark, all Germany, and Holland, had been liberated from the double restraint of internal regulation and external blockades, and depredations from a commerce with the United States. Other reasons for the opening of our ports were, that it would augment the revenue, and maintain the public credit; that it would enhance the price of our produce, and promote its circulation, in lieu of specie, which had lately become so much the object of speculations tending to embarrass the government. An increase of revenue was certainly an important object, as loans could not then be effected on the credit of the government without considerable sacrifice.

The president also recommended, as an additional safeguard and encouragement to our growing manufactures, that the double duties on imports which were to expire at the end of one year after a peace with Great Britain, should be prolonged a year; and that, in favor of our moneyed institutions the exportation of specie during the same period should be prohibited. A bill for the latter purpose was introduced; but no act was passed in favor of either of these measures.

Although Great Britain had declined the offer of mediation by Russia, an offer to treat of peace, at London, was communicated to our government; or, if some other place should be preferred, Gottenburg, in Sweden, was proposed. The offer was readily accepted, and Gottenburg was chosen as the place of meeting. And as commissioners, the president nominated (January 14), Henry Clay and Jonathan Russell, to join Messrs. Adams and Bayard, whose nomination had been confirmed at the preceding session. Mr. Russell was now also confirmed as minister to Sweden. On the 8th of February, Mr. Gallatin, still in Europe, was again nominated, and was confirmed. The place of meeting, however, was changed to Ghent, in Belgium. By the vessel which brought the offer to negotiate, news was received of the defeat of Bonaparte at Leipsic, which was thought to have had some influence in determining the president's acceptance of the offer to negotiate.

This news from Europe was succeeded, in June, by that of the abdication of Napoleon and the restoration of the Bourbons; and induced the president to send new instructions to the commissioners. Instead of insisting on security against impressment, as they had been first instructed, they might, if peace could not be had upon other terms, waive the question of impressment, and leave it for future negotiation. On the sea, where it was apprehended we should be least able to cope with the enemy, we had been most successful. Many brilliant victories had been achieved by our navy. On the lakes, our fleets had been signally triumphant. Yet, a large portion of our Atlantic coast being in a state of blockade, our coasting trade was seriously obstructed. The operations of our army had not been attended with equal success. They had been such as to inspire little hope of effecting the conquest of Canada, which, if it were not, as the federalists charged that it was, a *motive* to the declaration of war, had since become one of its chief objects. Several invasions had been made with this view; but, although in a number of engagements our arms had been victorious, the acquisition of these British provinces was next to hopeless. Besides, the peace of Europe had released large portions of the British naval and military forces, which were about to be sent over to serve in the American war. Perhaps also the state of the national finances and currency contributed to the indis-

position of our government to protract a war in which we were, in all probability, soon to exchange our offensive position for one of defense; preparations being in progress, as was supposed, for an invasion of the United States.

In the month of August, 1814, a British army of between 4,000 and 5,000 men under Gen. Ross, ascended the Potomac to Washington, burned the capitol and other public buildings, including the president's house, and retreated. The president and his secretaries, to avoid capture, fled from the city. The want of due preparation to defend the seat of Government, was owing to a culpable negligence on the part either of the president or of General Armstrong, then secretary of war, or both. Though not entirely defenseless, the forces were inadequate to a successful resistance.

On the 19th of September, the 13th congress commenced its 3d session. It had been convened by the president before the day (the last Monday of October) fixed at the last session. In his message, the president assigned as a reason for having convened congress before the appointed time, "as well that any inadequacy in the existing wants of the treasury might be supplied, as that no delay might happen in providing for the result of the negotiation, on foot with Great Britain, whether it should require arrangements adapted to a return of peace, or further and more effective provisions for prosecuting the war." He regarded the repeal of the order in council, and the general pacification in Europe, which had withdrawn the occasion for impressments from American vessels, as favoring the expectations that peace might be reëstablished, while the rejection of the offer of mediation, the delay in preparing for the negotiation proposed by Great Britain herself, and the manner in which the war was then conducted, indicated a hostility more violent than ever. In speaking of the events of the war, he mentions "the splendid victories" and "the most unfading laurels" gained by Brown, Scott, and Gaines, and "the bold and skillful operations of major-general Jackson." He noticed the enterprises of the enemy against the metropolis and Alexandria, "from both of which his retreats were as precipitate as his attempts were bold and fortunate;" and the success of our arms at Plattsburg, and our victories on the waters, were made a subject of congratulation.

The president also recommended farther provisions for increasing the army and for furnishing the necessary pecuniary supplies. The situation of the country called for its greatest efforts. The enemy, he said, was powerful in men and money, on the land and on the water. Availing himself of fortuitous advantages, he was aiming with his undivided force a deadly blow to our growing prosperity, perhaps at our national existence.

Measures were accordingly adopted by congress to prosecute the war with vigor. The purchase or building of additional war vessels was authorized; and provision was made for filling the ranks of the army, and for otherwise increasing it. In aid of the treasury, an additional loan of three millions was authorized; duties on carriages, distilled spirits, and on other domestic manufactures, were increased; and duties were laid on household furniture and gold and silver watches. Also a direct tax of six millions was laid.

On the 15th of December, 1814, was held that famed assemblage, the Hartford Convention. It was long supposed, and indeed the opinion is to some extent still entertained, that the designs of this convention were treasonable, or, at least, that it contemplated a dissolution of the union. As the proceedings of this convention were conducted within closed doors, the public have no other means of information respecting their character than the account of them as published by order of the convention itself, and more recently, (in 1833,) a history of that convention by its secretary, Theodore Dwight. In the absence of any other evidence against the unlawful designs of that body than the suspicious circumstances under which, and the particular juncture at which, it was held we are compelled to rely for *facts* on the statements of those who witnessed its deliberations.

The general object of the convention was a redress of grievances. One ground of complaint was the law passed at the preceding session, "making further provision for filling the ranks of the army of the United States." This law authorized the recruiting officers to enlist into the army any free, effective, able bodied men between the ages of eighteen and fifty years. It also repealed the provisions of former acts requiring the consent in writing of parents or guardians for the enlistment of minors; provided masters of apprentices who were enlisted should receive a portion of the bounty money. Parents were unwilling that their children should be taken from under parental care, and placed in the contaminating atmosphere of an army. This mode of supplying the army by conscription, as it was called, or drafting, they objected to. They claimed it as a state right to raise men in their own way; and denied the right of the general government either to prescribe the mode of enlistment; or to sever the connection established by law between parents and children, or masters and apprentices.

The secretary in his history of the convention, says: "The situation of the New England states was in the highest degree critical and dangerous. The services of the militia, for two years, had been extremely severe; they were constantly taken from their farms and their ordinary occupations, and in addition to all the losses which such a state must

necessarily produce, they were subjected to the hardships and hazards of a camp, and the life of a soldier. In the meantime, the United States had withheld all supplies for the maintenance of the militia for the year 1814, both in Massachusetts and Connecticut, and thus forced upon the states the burden of supporting the troops employed in defending their coasts from invasion, and their towns from being sacked and pillaged. * * * It had become perfectly apparent, that if the New England states were rescued from the effects of these calamities at all, it must depend, as far as human means were concerned, upon their own exertions, and that they could not place the least dependence on the national government. Indeed, they had been repeatedly told that such was the state of things by the national government."

In October, a resolution was adopted by the legislature of Massachusetts for the appointment of twelve delegates "to meet and confer with delegates from the other New England states, or any other, upon the subject of their public grievances and concerns; and upon the best means of preserving our resources; and of defense against the enemy; and to devise and suggest for adoption by those respective states, such measures as they may deem expedient;" &c. A letter was also prepared and addressed to the governors of the several states, accompanying the above resolution, and extending the invitation to their legislatures to appoint delegates to the proposed convention, the object of which was to devise, if practicable, means of security and defense which may be consistent with the preservation of their resources from total ruin, and adapted to their local situation, mutual relations and habits, and not repugnant to their obligations as members of the union." Another object was to procure such amendments of the national constitution as should secure to them equal advantage.

Formal action was taken upon this communication by the legislatures of Connecticut and Rhode Island, and delegates were appointed. The people of the counties of Grafton and Cheshire, in New Hampshire, and those of the county of Windham, in Vermont, also appointed delegates. The convention was in session from the 15th of December, 1814, till the 5th of January, 1815. George Cabot, of Massachusetts, was chosen president, and Theodore Dwight, secretary. Mr. Dwight's name is not in the list of members. The following is the list:

From Massachusetts: George Cabot, Nathan Dane, William Prescott, Harrison Gray Otis, Timothy Bigelow, Joshua Thomas, Stephen Longfellow, Jun., Daniel Waldo, Hodijah Baylies.

From Connecticut: Chauncey Goodrich, John Treadwell, James Hillhouse, Zephaniah Swift, Nathaniel Smith, Calvin Goddard, Roger Minot Sherman.

From Rhode Island: Daniel Lyman, Samuel Ward, Edward Manton, Benjamin Hazard.

From New Hampshire: Benjamin West, Mills Olcott.

From Vermont: William Hall, Jun.

The result of the deliberations of the convention was embodied in a report of great length, which concludes with four resolutions and seven proposed amendments to the constitution.

The *first* resolution recommended to the states the adoption of measures to protect their citizens against forcible drafts, conscriptions, or impressments not authorized by the constitution. The *second*, recommended application to the general government for consent that the states represented in this convention might separately or in concert defend themselves against the enemy. The *third*, recommended state laws authorizing the governors or commanders-in-chief of their militia to make detachments from the same, or to form voluntary corps, and to cause them to be well armed and disciplined, and ready for service, &c. The *fourth*, recommended to the states represented in that convention certain amendments to be by them proposed for adoption by the state legislatures, &c. The amendments were as follows:

1. Excluding slaves from the basis on which representatives and direct taxes are apportioned.
2. Requiring, in the admission of new states, the concurrence of two-thirds of both houses.
3. Prohibiting congress from laying an embargo for more than sixty days.
4. Prohibiting congress from interdicting commercial intercourse with foreign nations, without the concurrence of two-thirds of both houses.
5. Requiring the concurrence of two-thirds to declare war, or authorize acts of hostility against any foreign nation, except in defense and in cases of actual invasion.
6. Making ineligible to any civil office under the general government, any person thereafter naturalized.
7. The president to be eligible only for a single term; and not to be chosen two terms in succession from the same state.

Then followed a resolution, that, if the application recommended in the second of the foregoing resolutions should be unsuccessful, and peace should not be concluded, and the defense of these states should be neglected as it had been since the commencement of the war, it would be expedient for the legislatures of the several states to appoint delegates to another convention, to meet at Boston on the third Tuesday of June next, with such powers and instructions as the exigency of a crisis so momentous might require.

A committee was also appointed, authorized to call another meeting of this convention before that time, if it should be deemed necessary.

When, in 1819, the original journal of the proceedings of this convention was placed in the office of the secretary of state in Boston, it was duly certified by the president, Mr. Cabot, to be a faithful and complete record of all the motions, resolutions, votes, and proceedings of that convention.

The state of the national finances, as presented to congress at its meeting in September, 1814, by the new secretary of the treasury, Mr. Campbell, was by no means gratifying. Stock had been issued for about half of the twenty-five million loan authorized at the preceding session, and only about 80 per cent. had been received for the same; that is to say, the government was obliged to sell its obligations on interest at six per cent. at a discount of 20 per cent. About one-half of eight millions of treasury notes outstanding, together with other sums, amounting in the aggregate to about twenty-five millions, would be drawn for upon the treasury within the year; of which all but about nine millions was to be provided for.

In addition to the loan of three millions, and the duties above mentioned, an act, in further aid of the treasury, was passed, for the issue of treasury notes in lieu of such portion of the twenty-five million loan authorized at the preceding session, and the three million loan authorized at the present session, as had not yet been obtained; and for the further sum of three millions to defray the expenses of the war department for the present year.

Most of the banks, except those of New England, had suspended specie payments, caused, in part, by the drain of specie to pay for foreign goods, chiefly British, which had been brought into the country clandestinely, and under false colors. Mr. Campbell having resigned immediately after making his report to congress, Alexander Dallas, of Philadelphia, was appointed in his place. Mr. Dallas proposed a plan of a huge national bank, with a capital of *fifty millions*, to consist of five millions of specie, and the residue of government stock; the government itself to subscribe two-fifths of its capital, to appoint a part of the directors, and to have power to authorize a suspension of specie payments! Another of its provisions required it to loan to the government thirty millions. This scheme of a bank—so necessary was some institution of the kind considered at that particular crisis—received the favor of the administration. So obnoxious, however, was it to Mr. Calhoun and some other republicans, that he proposed a counter project: a bank with a capital of fifty millions, to consist of six millions of specie, and forty-four millions of treasury notes; the government to

hold no stock in the bank no control in its direction, nor any legal right to demand loans from the bank. This plan was carried in the house by a large majority, the federalists voting in favor of it.

The house having subsequently requested Mr. Dallas's opinion as to the effect of the issue of a large amount of treasury notes receivable in subscriptions to the bank, he gave it as his opinion, that it would have an injurious effect upon the credit of the government, and upon the prospects of a loan for 1815; and also that it would be difficult, if not impossible, to get so large an amount as forty-four millions of such notes into circulation. After this letter was read, the question was taken on the third reading of the bill, and lost, 45 to 107; the federalists now voting against the bill.

A bill on the plan of Dallas was then introduced into the senate, and passed. In the house it was violently opposed, and, having undergone some amendments, and the question being taken on its passage, the vote stood, 81 in its favor, and 80 against it. The speaker, Mr. Cheves, availed himself of his right to vote in two cases; and, after having given his reasons for opposing the bill, considering it a "dangerous, unexampled, and desperate resort," he voted in the negative, producing a tie; and then declared the bill to be lost. A reconsideration was then moved and carried; and a compromise bill was reported by a select committee, and adopted. The bank was to have a capital of *thirty* millions; to be composed of specie, five millions; of treasury notes fifteen millions; and of government stock, five millions. There was to be no compulsory loan to the government, nor provision to suspend specie payments. After an ineffectual attempt on the part of the senate to substitute a clause authorizing the president to suspend—the house refusing to concur—the bill passed, but was vetoed by the president, January 30, 1815.

No objection was made by the president to the bill on the ground of the want of constitutional authority to establish a bank; the validity of such an institution having been repeatedly recognized by "acts of the legislative, executive, and judicial branches of the government, accompanied by indications, in different modes, of a concurrence of the general will of the nation." But, he said, "the proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, and of aiding the treasury by facilitating the indispensable anticipations of the revenue, and by affording to the public more durable loans."

Still another bank bill, on the principle of Dallas's plan, was originated in the senate, by Mr. Barbour, which passed that body, but was indefinitely postponed in the house by a majority of one vote.

CHAPTER XIX.

PEACE WITH GREAT BRITAIN.—GENERAL JACKSON AND MARTIAL LAW AT NEW ORLEANS.—PROTECTIVE TARIFF.—BANK.—COMPENSATION, NAVIGATION, NEUTRALITY, AND OTHER ACTS.

THE first account of the progress of negotiations at Ghent, was unfavorable. The British commissioners, lord Gambier, Henry Goulburn, and William Adams, did not arrive until the 6th of August. Dispatches dated the 12th, were communicated to congress the 10th of October. As an indispensable condition of a treaty of peace, the British commissioners were instructed to require, that their Indian allies should be included in the pacification, and that a definite boundary between them and the United States should be settled; with the intention, on their part, that the Indian territories should be a barrier between the United States and Canada: and the United States were to be prohibited from purchasing those territories. Extravagant as this demand was, it was not less so than another, designed to strengthen this barrier—our relinquishment of the right to maintain military posts on the lakes, or to keep armed vessels on them.

Other subjects were mentioned which they thought proper to discuss; none of which, however, were to be made a *sine qua non* of a treaty. One was the forcible seizure of mariners from on board merchant ships on the high seas, and, in connection with it, the right of the king of Great Britain to the allegiance of all his native subjects. Another was the revision of the boundary line between the United States and the British territories. And another was the fisheries. It was intended to refuse the privilege formerly granted by treaty, of fishing within the territorial jurisdiction of Great Britain, without an equivalent.

The American commissioners stated that, upon the subjects of impressment and boundary they were authorized to treat; but as the Indian and fishery questions had not been in dispute between the two governments, they had not been anticipated by our government, and, consequently, in relation to them they had no instructions. Our commissioners mentioned as additional subjects suitable for discussion: 1. A definition of blockade, and of other neutral and belligerent rights. 2. Certain claims of indemnity to individuals for captures and seizures, preceding and subsequent to the war; besides several others, to be considered in case of a propitious termination of the present conferences.

The extravagant and even humiliating terms which were exacted by

the British government, and to which no one could believe our government would ever accede, nearly extinguished all hope of peace, and served to stimulate congress to a more effective preparation for the prosecution of the war. After a suspense of several months, on the 11th of February, 1815, a vessel arrived at New York bringing the news of PEACE, and bearing the treaty itself, ratified by the British government. The intelligence spread rapidly throughout the country, and was everywhere received with exclamations of joy. It was ratified at Washington the 17th of February, and proclaimed the next day by the president.

The correspondence between the American and British commissioners, has been justly regarded as highly creditable to the former, being characterized by firmness, moderation and ability. As to the comparative talent of the antagonist diplomatists, the results of the negotiation do not furnish infallible evidence. All things considered, however, there was no just ground of complaint, in respect to the management of the American side of the controversy. It is indeed a singular fact, that not one of the declared objects of the war, formed an essential topic of discussion in this negotiation of peace: the progress and result of which, as drawn from the correspondence, is thus summarily stated by Hildreth:

“The weakness of the British possessions in North America; the necessity of some barrier against that ambitious spirit of annexation exhibited in the acquisition of Louisiana, the threatened conquest of Canada, and the constant curtailment of the Indian territory: these had been stated by the British commissioners, at the opening of the negotiations, as grounds of their claim for an assignment to the British Indian allies of a permanent neutral territory, with a prohibition to the United States to establish fortresses or keep ships on the great lakes. The American commissioners had protested, in reply, against this attempted interference with the Indians, as a thing which the policy of Great Britain had never permitted in her own case, and as contrary to the assurances originally given of a disposition to treat on terms of perfect reciprocity. They denied, with emphasis, that the conquest of Canada had ever been a *declared object* of the war; and they dwelt on the humane disposition of their government toward the Indians, protesting, also, against the British employment of Indian auxiliaries. Finally, after some pretty sharp controversy, the British commissioners had agreed to be content with a neutral stipulation for peace with the Indians, the tribes still actively engaged in hostilities at the close of the war to be restored to the same position in which they had stood at its commencement. This question disposed of by the provisional assent of the American commissioners, the next related to boundaries. The false idea

that the Mississippi had its source north of the 49th degree of latitude, had rendered nugatory the provision of the treaty of 1783 as to the northern boundary of the United States west of the Lake of the Woods. That boundary, indeed, since the acquisition of Louisiana, remained to be extended far to the west, the United States claiming, under that cession, even to the Pacific Ocean. The provision for a boundary on the northeast, so far as related to the territory between the head of the St. Croix and the head of the Connecticut, had likewise failed, so the British commissioners contended, from similar geographical ignorance; and, as the basis of a new arrangement, they had suggested that each party should retain what he held at the signing of the treaty. To this the American commissioners had refused to agree. So the negotiation had stood by the latest accounts previous to the arrival of the treaty of peace.

"The treaty, as signed, provided for the mutual restoration of all conquered territory, and for the appointment of three commissions; one to settle the title to the islands in Passamaquaddy Bay, another to make out the north-eastern boundary as far as the St. Lawrence, and a third to run the line through the St. Lawrence and the lakes to the Lake of the Woods. In case of disagreement in either commission, the point in dispute was to be referred to some friendly power. No provision was made as to the boundary west of the Lake of the Woods nor as to the fishing on the shores of British America. The British commissioners refused to accept, in return for this right of fishing, a modified renewal of the article for the navigation of the Mississippi, which, in their view, was also terminated by the war. The result, therefore, was, that, instead of leaving the parties where they began, the war took away from Great Britain a nominal right, never used, of navigating the Mississippi, and from the New England fishermen a valuable right, hitherto used from the earliest times, of catching and curing fish on the shores of the Gulf of St. Lawrence, the loss of which still continues to be felt. By some adroit management, the English commissioners were induced to admit into the treaty a clause copied from that of 1783, with the history of which probably they were not familiar, against carrying away "any negroes or other property." The only remaining article related to the slave trade, for the suppression of which, as irreconcilable with the principles of humanity and justice, both parties promised to use their best endeavors."

An inquiry here naturally suggests itself. As, after the revocation of the British orders in council, impressment was the only grievance to be redressed by war; and as that question was subsequently waived by our government in the negotiation; what was gained by the war?

It has been considered as no small point gained, that ample evidence has been given to Great Britain of our capacity successfully to resist her power, especially upon the ocean, where she had long claimed a vast superiority; and that a guaranty had thus been furnished against future aggression. It is questionable, however, if the result could have been known, or if the unbiased counsels of our older statesmen had prevailed, whether war would have been declared. Jefferson, Madison, Gallatin, Macon, and others, were of a pacific disposition. The leading men of the administration were known to have given a reluctant sanction to the war project; but they found themselves under a kind of necessity to yield to the impulsive young politicians, Calhoun, Clay, and a number of others, who, it was suspected, were striving to turn the popular prejudice against Great Britain, to their own political advantage. Whether the nation has ever obtained an equivalent for the 30,000 lives and the hundred millions of money expended; for the loss of property and several years of prosperous commerce; for the depravation of the public morals, and the train of other evils inseparable from a state of war; is a question which at least admits of a reasonable doubt.

On the 20th of December, Gen. Jackson proclaimed martial law at New Orleans. On the 5th of March, an order was issued, stating, that attempts had been made, under specious pretexts, to diminish our force by seducing French inhabitants from their duty; and that he had, on the 28th ultimo, ordered all French subjects having certificates of the French consul, to repair to the interior, not short of Baton Rouge, until the enemy had left our waters, or until the restoration of peace. And he now enjoined all officers and soldiers to give the earliest intelligence of all mutiny or sedition, and to arrest all concerned therein, and to confine them for trial agreeably to the rules and articles of war. On the 7th he inclosed in a letter to "Mr. Le Clerc, printer," a circular from the postmaster general, which, he said, he believed to be genuine, and which placed the pleasing intelligence of peace almost beyond a doubt. Martial law, however, was still continued, for the alleged reason that he had not received official advice of the ratification of the treaty of peace. No farther danger from the enemy being generally apprehended, the continuance of martial law, which began to be complained of, was made the subject of animadversion by a writer in one of the newspapers, whose name the publisher was compelled to disclose, and who proved to be a member of the legislature, named Louallier, who was, by order of Gen. Jackson, committed to prison to be tried by a military court for his life, on a charge of mutiny.

On application to judge Hall, of the United States district court, a writ of habeas corpus was obtained in behalf of the prisoner; whereupon

the judge was himself arrested and sent out of the city. The district attorney having applied to a state judge for a writ of habeas corpus to release judge Hall, he also was imprisoned.

In his answer to a complimentary address of the city battalion of uniform companies, the general took occasion to vindicate his resistance to the civil authority. He said: "In declaring martial law, his object, and his only object, was to embody the whole resources of the country for its defense. That law, while it existed, necessarily suspended all rights and privileges inconsistent with its provisions." He maintained the necessity of continuing martial law, in order to prevent his ranks from being "thinned by desertion, and his whole army broken to pieces by mutiny, while yet a powerful force of the enemy remained on the coast, and within a few hours sail of the city." It was not until he discovered that the civil power stood no longer in need of the military for its support, that he restored to it its usual functions; and the restoration was not delayed a moment after that period had arrived.

After the militia had been dismissed, and the judge had returned to the city, he ordered the general to appear before him to show cause why an attachment should not be issued against him for contempt in refusing obedience to the writ of habeas corpus, and for imprisoning the judge. The general appeared, accordingly, and tendered to the court, in his defense, a paper protesting against the proceedings of the court as "illegal, unconstitutional, and informal," and reserving to himself the benefit of his exceptions to them. This list of exceptions was followed by a statement of the reasons for instituting and keeping up martial law; among which were letters from the governor of Louisiana, and information derived from other sources, after his arrival at that place, putting him on his guard against a portion of the inhabitants, the legislature, and foreign emissaries; many of the people being disaffected foreigners, and unworthy of confidence. The militia had been represented as insubordinate, encouraged in their disobedience by the legislature, which was characterized as politically rotten, and the whole state dependent mainly on the regular troops and the militia from other states. These facts justified, in his view, the institution of martial law.

In regard to its continuance after the first information of peace, he said, the numbers of the enemy still quadrupled all the regular forces which he could command; and they might renew their attacks. If he had revoked his proclamation, or ceased to act under it, the fatal security into which they had been lulled would have destroyed all discipline, dissolved all his forces, and left him without any means of defense against an enemy instructed by traitors within our own bosom of the time and place at which an attack might be safely made. He thought the peace

probable, but not certain. If certain, a few days would bring the official advice of it; and he thought it better to submit during these few days to the restraints imposed, than to put the country at risk on an uncertain contingency.

The reading of the defense was objected to by the opposite counsel. The judge admitted that part of the paper which related to the legal points of defense, but debarred the reading of that which was intended as a vindication of his conduct. After considerable discussion, the court adjourned to the next day, (March 28,) when the judge read an opinion which he had drawn up, containing certain points of objection in regard to martial law and the suspension of civil jurisprudence, and declaring that the written defense could not be legally admitted. After the hearing, the judge decided that an attachment should issue, returnable on the 31st, when the general appeared without his counsel. Being told by the judge that there were interrogatories to be propounded to him, he replied that he would not answer them; saying, that he had offered a defense which had been refused; that he now appeared to receive the sentence of the court, and had nothing further to add. During the reading of his opinion, the judge was several times interrupted by the general, who at one time said: "Sir, state facts, and confine yourself to them: since my defense has been precluded, let not censure constitute a part of this sought for punishment." The judge sentenced him to pay a fine of \$1,000, for which he drew a check on the spot, which was received in discharge.

On leaving the court-house, he was received by the multitude outside, with acclamation, and seated in a coach, which was drawn by the people to a public house, where he addressed them in a short speech. The amount of the fine was immediately raised by subscription, and paid over, and the check returned without having been presented. It has been said that he declined to receive the money, which is probable, from the fact that, in 1844, by an act of congress, the thousand dollars, with interest, was refunded.

Peace having been restored, the government very naturally directed its attention to the adaptation of its policy to our altered condition. The general peace of Europe, no less than the restoration of peace between the United States and Great Britain, demanded a change in our commercial regulations. Permanent provision was to be made for the payment of the public debt, which had been increased by the war to about \$120,000,000. Importations were large, and must rapidly augment our indebtedness to foreigners—the more so as the peace of Europe would greatly lessen the demand for our agricultural products, and seriously affect our carrying trade. A similar state of things had not existed since the establishment of the government under the constitution.

Therefore, at the next session of congress, in December, 1815, the president recommended a "tariff on manufactures," with reference, both to the revenue and to manufacturing industry. The views of Mr. Madison on this subject were thus stated :

" In adjusting the duties on imports to the object of revenue, the influence of the tariff on manufactures will necessarily present itself for consideration. However wise the theory may be which leaves to the sagacity and interest of individuals the application of their industry and resources, there are in this, as in other cases, exceptions to the general rule. Besides the condition which the theory itself implies of a reciprocal adoption by other nations, experience teaches that so many circumstances must occur in introducing and maturing manufacturing establishments, especially of the more complicated kinds, that a country may remain long without them, although sufficiently advanced, and in some respects even peculiarly fitted for carrying them on with success. Under circumstances giving a powerful impulse to manufacturing industry, it has made among us a progress, and exhibited an efficiency, which justify the belief that with a protection not more than is due to the enterprising citizens whose interests are now at stake, it will become at an early day not only safe against occasional competitions from abroad, but a source of domestic wealth and even of external commerce. In selecting the branches more especially entitled to the public patronage, a preference is obviously claimed by such as will relieve the United States from a dependence on foreign supplies, ever subject to casual failures, for articles necessary for the public defense, or connected with the primary wants of individuals. It will be an additional recommendation of particular manufactures, where the materials for them are extensively drawn from our agriculture, and consequently impart and insure to that great fund of national prosperity and independence an encouragement which can not fail to be rewarded."

Mr. Dallas, secretary of the treasury, reported to congress a tariff of duties on imports, which, with some modification, became a law. This may be regarded as the commencement of what is called the protective system ; which, though not without essential modifications, has been the established policy of the government to the present time. The duties imposed by Great Britain upon cotton, rendered the home manufacture of that article an object of great importance to the cotton producing states. Hence, Calhoun and Lowndes, the leading members from South Carolina, were among the most zealous advocates of the measure. Mr. Clay, also, then as ever afterward, took a strong stand in favor of that system ; while Webster and most of the members from the New England states, with John Randolph, took ground against it.

This question affords a striking illustration of the effect of personal interest, real or imaginary, pecuniary or political, upon the opinions of men. The change of position on this subject is somewhat remarkable. The report, in 1792, of Hamilton, the great federal leader, whose schemes of finance were then repudiated by his political opponents, now furnished the democrats with arguments, while the federalists planted themselves on the doctrines of free trade. The positions in which individuals stood in 1816, were, a few years afterward, entirely reversed; each still advocating his new position on the *general principle*, either of free trade or protection. The mercantile class were generally opposed to the system.

The duties imposed by this act upon the most important articles, ranged from about twenty to thirty-five per cent. On coarse cottons, costing twenty-five cents or less, which must all be deemed to have cost twenty-five cents the square yard, the duty was twenty-five per cent. On woollens twenty-five per cent. On manufactures of hemp, iron, steel, brass, copper, &c., twenty per cent. On bar iron, \$1 50 per hundred weight. On nails, spikes and bolts, 4 cents per pound. On window glass, from \$2 50 to \$3 25 per hundred feet. On hemp, \$1 50 per hundred weight. On spirits, from 38 to 75 cents per gallon. The list of articles was numerous; and the duties varied according to the measure of the ability of the country to supply the demand; those of which a full supply of the domestic article could be furnished being rated higher than those the demand for which could be supplied only in part, or could not be produced at all. The internal taxes or duties on domestic manufactures laid during the war, were either repealed or materially reduced.

Application for the rechartering of the first bank, had been made in 1810, and a favorable report made to congress by Mr. Gallatin, secretary of the treasury; but at too late a period of the session to be acted upon. The application was renewed the next year; a bill was introduced into each house; and after an arduous contest, the bills in both houses were lost; that of the house having been indefinitely postponed, 65 to 64; and that of the senate having had its enacting clause struck out by the casting vote of the vice-president, George Clinton, who was opposed to the bill, on the ground of its supposed unconstitutionality. It was supported in the senate by Mr. Crawford and Mr. Giles; the latter, however, voting against it in obedience to instructions of the legislature of his state, (Virginia.) It was opposed by Mr. Clay, then in the senate Mr. Bayard, and others.

Many of the leading statesmen had changed their views on the subject of a national bank since 1811; among whom was Mr. Clay, now (1816).

a member of the house and again its speaker, who made a very able speech in its favor. It was believed that a bank was necessary to restore the currency to its former healthy state, and to facilitate the financial operations of the government. The vote on the final passage of the bill in the house, was 80 to 71. It became a law on the 10th of April. Its capital was \$35,000,000; of which one-fifth (7,000,000,) was to be subscribed by the government. Of the sums subscribed, one-fifth was to be paid in specie. It was entitled to the deposit of the public moneys, and was required to disburse them in any part of the union where they might be wanted, without charge to the government. It was also to pay \$1,500,000 as a bonus for its charter. Of the twenty-five directors, five were to be appointed by the president with the consent of the senate. The deposits were removable by the secretary of the treasury for sufficient reasons, to be laid before congress. The term of its charter was twenty years.

The people of the territory of Indiana were authorized (April, 1816) to form a constitution and state government, preparatory to admission into the union.

A joint resolution was passed, requiring the secretary of the treasury to cause, as soon as might be, all taxes, duties, and public dues to be collected and paid in specie, or notes of specie-paying banks, or treasury notes. The object of this requisition was to effect a resumption of specie payments by the banks, which took place at the commencement of the next year.

The daily compensation of members of congress, which was six dollars, was changed at this session to an annual salary of \$1,500, irrespective of the length of the sessions; the usual mileage to be continued. Such was the popular clamor against this bill, as to induce its repeal at the next session, (1817) though not to take effect until after the expiration of the session. The act contained a proviso, that no former act should be revived by the repeal. Not agreeing upon a rate of compensation after the end of their own term, the matter was left to be disposed of by their successors.

A caucus was held on the 16th of March, by the republican members, to nominate a successor to Mr. Madison. Mr. Clay moved a resolution that it was inexpedient to make, in caucus, any recommendation to the people of candidates for president and vice-president, which was negatived; as was another by John W. Taylor, of New York, declaring the practice of making such nominations by members of congress, to be inexpedient. A ballot having been taken, it appeared that James Monroe had 65 votes, and William H. Crawford 58. Daniel D. Tompkins, governor of New York, had 85 votes for vice-president, and Simon

Snyder, governor of Pennsylvania, 30. Messrs. Monroe and Tompkins were declared nominated without opposition.

The 14th congress commenced its 2d session December 2, 1816, which terminated with Mr. Madison's presidential term, the 3d. of March, 1817.

On the 11th of December, the people of Indiana, having, in conformity with the act of congress at the preceding session, formed a state constitution which was accepted by congress, that territory was, by a joint resolution, admitted as a state into the union. By an act of March 1, 1817, the people of the western part of the territory of Mississippi, were authorized to form a constitution and state government with a view to admission. And by another act, the eastern part of the territory was to constitute a separate territory, called Alabama.

Among the most important acts of this session, was "an act concerning the navigation of the United States." In consequence of the discriminations made by certain European nations since the peace in favor of their own navigation, a similar policy was deemed necessary on the part of the United States. An act was therefore passed, restricting importations to vessels of the United States, and to foreign vessels owned in the country of which the goods were the product or manufacture: the regulation to apply only to the vessels of those nations which had adopted a similar regulation. For a violation of the law, vessel and goods were forfeited. The coasting trade was restricted to vessels owned wholly by our own citizens, under a penalty of the forfeiture of the goods. And to encourage the employment of American seamen, coasting vessels not having crews of whom three-fourths were Americans, were to be subject to a duty of fifty cents a ton, instead of six cents; as in other cases.

By an act to provide for the redemption of the public debt, \$10,000,000 from the proceeds of the duties on imports and tonnage, of internal duties, and of the public land sales, was to be appropriated annually to the sinking fund.

Spain having complained that aid had been given by citizens of the United States to the insurrections in Texas and Mexico, a general law was passed against fitting out vessels within the jurisdiction of the United States, to aid or coöperate in any warlike measure against any friendly power; imposing as a penalty for its violation, a fine not exceeding \$10,000, and imprisonment not exceeding ten years.

The president had, in his annual message to congress at the preceding session, recommended to the consideration of congress the subject of internal improvement. A bill creating a fund for this purpose, to consist of the bonus to be paid by the bank, and the dividends of the gov-

enment stock in the same, was passed, in the house 86 to 84; in the senate 20 to 15; but was vetoed by the president, for the reason that appropriations for that object were unauthorized by the constitution. The leader in this measure was Mr. Calhoun, then a latitudinarian in his views of constitutional power.

CHAPTER XX.

ELECTION AND INAUGURATION OF MR. MONROE.—CORRESPONDENCE WITH GEN. JACKSON.—CABINET APPOINTMENTS.—PRESIDENT'S TOUR.

AT the presidential election in 1816, there was little opposition to the republican candidates. Of the votes of the presidential electors, Mr. Monroe and Mr. Tompkins received each 183; and 34 were given to Rufus King, the federal candidate for president, and about the same number were scattered upon a number of persons for vice-president.

Mr. Monroe was inaugurated on the 4th of March, 1817, with the usual ceremonies. A prominent subject of his inaugural address was the national defense. With respect to securing the country against foreign dangers, his ideas seem to have gone beyond those of his two immediate predecessors. "To put our extensive coast in such a state of defense as to secure our cities and interior from invasion," he said, "would be attended with expense; but the work, when finished, would be permanent; and it was fair to presume, that a single campaign of invasion by a naval force superior to our own, aided by a few thousand land troops, would expose us to a greater expense, without taking into the estimate the loss of property and distress of our citizens, than would be sufficient for the great work." "Our land and naval forces should be adequate to the necessary purposes; the former to garrison our fortifications, and to meet the first invasions of a foreign foe; the latter, retained within the limits proper to a state of peace, might aid in maintaining the neutrality of the United States, with dignity in the wars of other powers, and in saving the property of their citizens from spoliation."

Respecting the encouragement of home industry, he said:

"Our manufactures will likewise require the systematic and fostering care of the government. Possessing, as we do, all the raw materials, the fruit of our own soil and industry we ought not to depend in the degree we have done on supplies from other countries. While we are thus dependent, the sudden event of war, unsought and unexpected, can

not fail to plunge us into the most serious difficulties. It is important, too, that the capital which nourishes our manufactures should be domestic, as its influence in that case, instead of exhausting, as it may do in foreign hands, would be felt advantageously on agriculture, and every other branch of industry. Equally important is it to provide at home a market for our raw materials, as by extending the competition, it will enhance the price and protect the cultivator against the casualties incident to foreign markets."

As the best means of preserving our liberties, he said, "let us promote intelligence among the people. It is only when the people become ignorant and corrupt, when they degenerate into a populace, that they are incapable of exercising the sovereignty. The people themselves become the willing instruments of their own debasement and ruin."

Mr. Monroe entered upon the duties of his office under auspicious circumstances. The nation was at peace; and, although negotiations with Spain were still pending, there was no apprehension of an interruption of our amicable relations with any foreign power. The return of peace had been succeeded by a political calm. The federal party as an organization, was defunct, beyond the hope of resuscitation: and not the least cheering reflection was, that his administration would escape the embarrassments of a powerful party opposition which had been experienced by all former administrations. Says the address: "Equally gratifying is it to witness the increased harmony of opinion which pervades the union. Discord does not belong to our system. Union is recommended, as well by the free and benign principles of our government, extending its blessings to every individual, as by the other eminent advantages attending it." He adds: "To promote this harmony in accordance with the principles of our government, and in a manner to give them the most complete effect, and to advance, in all other respects, the best interests of our country, will be the object of my constant and zealous exertions."

From the liberal and conciliatory spirit indicated by the inaugural address toward those who differed from him in their political opinions, it was inferred by some, that, in the bestowment of patronage, Mr. Monroe intended to make no discrimination. That such was not his intention, however, appears both from his practice and from his correspondence with Gen. Jackson, which, though it took place at that time, was not published until many years afterward. Immediately after the presidential election, and before the electors had yet cast their votes, Gen. Jackson, in a letter to Mr. Monroe, recommended the course above suggested. As the advice contained in that letter appears to have been prompted by a truly magnanimous and patriotic sentiment, which should be the guide

of every statesman, we transcribe the paragraph relating directly to this subject :

“ Your happiness and the nation’s welfare materially depend upon the selections which are to be made to fill the heads of departments. * * * Every thing depends on the selection of your ministry. In every selection, party and party feelings should be avoided. Now is the time to exterminate that *monster* called party spirit. By selecting characters most conspicuous for their probity, virtue, capacity, and firmness, without any regard to party, you will go far to, if not entirely, eradicate those feelings, which, on former occasions, threw so many obstacles in the way of government; and perhaps have the *pleasure* and *honor* of uniting a people heretofore politically divided. The chief magistrate of a great and powerful nation should never indulge in party feelings. His conduct should be liberal and disinterested, always bearing in mind that he acts for the *whole* and not a *part* of the community. By this course you will exalt the national character, and acquire for yourself a name as imperishable as monumental marble. Consult no party in your choice, pursue the dictates of that unerring judgment which has so long and so often benefited our country, and rendered conspicuous its rulers. These are the sentiments of a friend; they are the feelings, if I know my own heart, of an undissembled patriot.”

The time, however, had not yet come, in the opinion of Mr. Monroe, when it was politic to break down the partition wall between the parties. His views are thus expressed in his answer of December 14, 1816: “ The election has been made by the republican party, supposing that it has succeeded, and of a person known to be devoted to that cause. How shall he act? How organize the administration, so far as dependent on him, when in that station? How fill the vacancies existing at the time?

“ The distinction between republicans and federalists, even in the southern, and middle, and western states, has not been fully done away. To give effect to free government, and secure it from future danger, ought not its decided friends, who stood firm in the day of trial, to be principally relied on? Would not the association of any of their opponents in the administration, itself wound their feelings, or, at least, of very many of them, to the injury of the republican cause? Might it not be considered, by the other party, as an offer of compromise with them, which would lessen the ignominy due to the counsels which produced the Hartford convention, and thereby have a tendency to revive that party on its former principles? My impression is, that the administration should rest strongly on the republican party, indulging toward the other a spirit of moderation, and evincing a desire to discriminate between its mem-

bers, and to bring the whole into the republican fold, as quietly as possible. Many men, very distinguished for their talents, are of opinion that the existence of the federal party is necessary to keep union and order in the republican ranks; that is, that free government can not exist without parties. This is not my opinion. The first object is to save the cause, which can be done by those who are devoted to it only, and of course by keeping them together; or, in other words, by not disgusting them by too hasty an act of liberality to the other party, thereby breaking the generous spirit of the republican party, and keeping alive that of the federal party. The second is, to prevent the reorganization and revival of the federal party, which, if my hypothesis is true, that the existence of party is not necessary to a free government, and the other opinion which I have advanced is well founded, that the great body of the federal party are republican, will not be found impracticable. To accomplish both objects, and thereby exterminate all party divisions in our country, and give new strength and stability to our government, is a great undertaking, not easily executed. I am, nevertheless, decidedly of opinion that it may be done; and should the experiment fail, I shall conclude that its failure was imputable more to the want of a correct knowledge of all circumstances claiming attention, and of sound judgment in the measures adopted, than to any other cause. I agree, I think, perfectly with you, in the grand object, that moderation should be shown to the federal party, and even a generous policy be adopted toward it; the only difference between us seems to be, how far shall that spirit be indulged in the outset; and it is to make you thoroughly acquainted with my views on this highly important subject, that I have written you so freely upon it."

The correspondence between these two gentlemen was continued, taking, however, a different turn. Gen. Jackson, in a letter of the 6th of January, 1817, approved Mr. Monroe's exposition of "the rise, progress, and policy of the federalists;" and said: "Had I commanded the military department where the Hartford convention met, if it had been the last act of my life, I should have punished the three principal leaders of the party. I am certain an independent court-martial would have condemned them under the 2d section of the act establishing rules and regulations for the government of the army of the United States." These men, he said, although called federalists, were really monarchists and traitors. But there were those called federalists who were honest, virtuous, and really attached to the government. He repeats his recommendation of Col. William H. Drayton, of South Carolina, though a federalist, as well qualified for the war department; and as if to remove any objections, on account of his being a federalist, he said:

"Permit me to add, that names, of themselves, are but bubbles, and sometimes used for the most wicked purposes. I will name one instance. I have once been denounced as a federalist. You will smile when I name the cause. When your country put up your name in opposition to Mr. M., (Madison) I was one of those who gave you the preference, for the reason that, in the event of war, which was then probable, you would steer the vessel of state with more energy, &c. &c. That Mr. M., was one of the best of men, and a great civilian, I always thought; but I always believed that the mind of a philosopher could not dwell on blood and carnage with any composure: of course that he was not very well fitted for a stormy sea. I was immediately branded with the epithet federalist, and you also. But I trust, when compared with the good old adage, of the tree being known by its fruit, it was unjustly applied to either."

Mr. Monroe, on the 1st of March, communicated to the general his selection of some of his cabinet officers. He states that Mr. Clay, who had declined the offer of the war department made to him the last summer by Mr. Madison, had again declined it; that he then fixed his mind on him, (Jackson) but doubted whether he ought to draw him from the command of the southern army, where, in case of any emergency, no one could supply his place. He then resolved to nominate * * * * *; though it was uncertain whether he would serve. For secretary of state he had determined upon Mr. Adams, "whose claims, by long service in our diplomatic concerns, appearing to entitle him to the preference, supported by his acknowledged abilities and integrity, his nomination will go to the senate. Mr. Crawford, it is expected, will remain in the treasury."

In answer, (March 18,) the general approves the selection of Mr. Adams as the best that could be made. In the hour of difficulty, he would be an able helpmate, and his appointment would afford general satisfaction.

In accordance with the sentiments expressed in his letter to Gen. Jackson, Mr. Monroe selected his cabinet officers exclusively from the republican party. John Quincy Adams, then minister at London, was called to the office of secretary of state; William H. Crawford was continued secretary of the treasury; and Benjamin W. Crownshield, of Massachusetts, was continued secretary of the navy; Isaac Shelby, of Kentucky, was selected for the department of war, but declining, the office was vacant until the appointment of John C. Calhoun, December 16, 1817; Richard Rush, of Pennsylvania, was continued attorney-general, performing also the duties of secretary of state, until the return of Mr. Adams, whom he succeeded as minister to Great Britain, in December following; when William Wirt was appointed attorney-general. Return J. Meigs, of Ohio, was continued postmaster-general. The last was not then a cabinet officer.

Regarding an effective frontier defense as an object of high importance—the want of which had been severely felt during the war—the president in the summer, made a tour through the eastern states, for the purpose of a personal examination of the condition of the fortifications along the Atlantic coast; continuing his journey westward along our northern waters to Detroit, and returning to the seat of government through Ohio, Pennsylvania, and Maryland. The president was every where received with those demonstrations of respect which were due to his official station.

CHAPTER XXI.

THE SEMINOLE WAR.—OFFICIAL INVESTIGATION OF THE OCCUPATION OF FLORIDA BY GENERAL JACKSON.—RATIFICATION OF A TREATY WITH SPAIN.—TREATY WITH GREAT BRITAIN.—CESSION OF FLORIDA AND THE WESTERN TERRITORY.

THE Seminole war, as an item of political history, derives much of its importance from the question which it involves; viz., whether the occupation of Florida and other transactions relating to that war were not violations of the neutrality of Spain, of the law of nations, and of the constitution and laws of the United States.

In August, 1814, while the war existed between the United States and Great Britain, a British force, commanded by Col. Nicholls, entered Florida, then a province of Spain, took possession of Pensacola and the fort of Barancas, and by public proclamation invited runaway negroes, savage Indians and traitors to join their standard, and wage war against our defenseless inhabitants bordering on the neutral and violated territory of Spain. On the approach of the army under Gen. Jackson, Col. Nicholls evacuated this part of the province, and established himself on the Appalachicola river, where he erected a fort from which to carry on his predatory warfare, and where he continued his hostile operations after the ratification of the treaty of peace between the United States and Great Britain.

By the 9th article of this treaty, the United States stipulated to put an end immediately to all hostilities with the Indian tribes with whom they were at war, and to restore to them all the possessions which belonged to them prior to the year 1811. This stipulation did not apply to the Creeks. This nation had been brought, during the war, to terms of peace by Gen. Jackson, and in a treaty concluded in August, 1814, had ceded to the United States a part of their lands.

The expected peace, however, was not secured. The Seminoles were tribes living within and on the borders of Florida. A large portion of them were fugitives from northern tribes residing within the United States, whose numbers had been considerably augmented by Indians who were dissatisfied with their treaty, and had taken refuge in Florida, carrying with them feelings of hostility against the United States. Though most of the Seminoles resided in Florida, they were induced by Col. Nicholls to believe that they were, by the treaty of Ghent, entitled to all the lands owned by the whole Creek nation within the United States in 1811, and that Great Britain would enforce the observance of that treaty.

The Seminoles soon manifested their hostile feelings; and, for the security of the frontier, forts were established, and occupied by a portion of the regular forces. In the summer of 1817, murders having been committed on our citizens, Gen. Gaines was sent with a force to protect the inhabitants, with directions not to cross the Florida line, but to demand of the Indians a surrender of those who had committed the crimes. Among the instigators to these outrages, were Alexander Arbuthnot and Robert C. Ambrister, British subjects, who revived the pretense, that these Indians were entitled to the lands ceded by the Creeks to the United States in 1814. The demand for the murderers was made and refused; massacres and plunder were continued; and a border warfare ensued, in which the most wanton butcheries were perpetrated by the Indians without regard to age or sex.

With a view to the speedy termination of the war, Gen. Jackson, who had been appointed to the command, entered the Spanish province of Florida, and took possession of the posts of St. Marks and Pensacola. The government of Spain protested against these acts as invasions of her territory, and demanded the prompt restitution of these and all other forts and places, with all the property, public and private, taken and occupied by the forces under Gen. Jackson, and indemnity for all injuries and losses sustained by the crown and subjects of Spain. The controversy which ensued was conducted principally through Louis de Onis, the Spanish minister at Washington, and John Quincy Adams, secretary of state.

For the security of the inhabitants residing on the borders of both countries, the United States and Spain were, by the treaty of 1795, reciprocally bound, "by all means in their power, to maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which form the boundaries of the two Floridas; and the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the

Indian nations living within their boundaries;" so that neither party should suffer the Indians within its territory to commit acts of hostility against the citizens or subjects of the other party, "in any manner whatever."

It was alleged by the Spanish minister that the governor of Florida had observed a strict neutrality throughout the provinces during the late war between the United States and Great Britain. The obligation to prevent all hostile acts of the Indians of Florida against our citizens was acknowledged; and it was declared that the governor had faithfully recommended and enjoined peace and harmony with our citizens, and that, if any complaints had been made to the Spanish authority of any excesses committed by the Indians, (with which, however, they were not chargeable,) forcible means would have been employed to compel them to a reparation of injuries, and to punish them for their outrages.

Mr. Adams, in reply, referred to the treaty of 1795. Notwithstanding this express compact, the most shocking barbarities had been committed by the Seminole Indians and a banditti of negroes sallying from within the Spanish border, and retreating to it again with the fruits of their crimes. The governor of Pensacola had been called upon by a letter from Gen. Jackson to break up this stronghold; but he had pleaded an insufficiency of force to fulfill the obligation of his government. By the laws and usages of nations, we had a right to pursue an enemy seeking refuge in a neutral territory. But Florida was not in this case even a neutral, being the abode of an enemy of the United States whom Spain was bound to restrain.

The previous occupation of St. Marks was also defended. A report direct from the governor of Pensacola, as well as information from other reliable sources, had reached Gen. Jackson, that the fort of St. Marks had been threatened by the Indians and negroes; and the governor himself had, from the weakness of the garrison, expressed apprehension for its safety. To avoid the hazard of life in an attempt to expel the enemy, it was necessary to anticipate his movements, and get possession of it peaceably.

The duplicity and unfriendly feelings of the commandant of St. Marks had been clearly discovered. He had thrown open the gates of the fort, and permitted it to be used for councils of war; for storing goods; and for trading in cattle and other property plundered from our citizens. Foreign agents also had free access; and Arbuthnot, the chief instigator of the war, was an inmate of the commandant's family. When charged by Gen. Jackson with having given aid to the enemies of the United States, he admitted that he had been governed by policy. The defenseless state of the garrison had induced him to manifest external friendship by opening the fortress, lest it should be entered by violence.

Mr. Adams also reminded the Spanish minister of the erection of the fort upon Spanish territory, under the sufferance of Spanish authorities, by British officers during the war, for the annoyance of the United States, and of its having remained the stronghold of fugitive negroes and Indian robbers and murderers after the peace. And in reply to the plea of De Onis, that measures would have been taken to restrain the Indians had the authorities known them to be necessary, Mr. Adams observed that "the obligation of Spain was positive and unqualified; and that an attempt to evade its force by the allegation that Spain could not carry it into effect until she knew what hostilities had been committed, and the possible causes of them, would be equally unwarranted by the express terms of the article, and by the intentions of the contracting parties. The stipulation of Spain was not to punish her Indians for murders committed upon the aged and infirm, the women and children of the United States, but to restrain them from committing them: and the insinuation that the Indians had been provoked to such atrocious acts, would be as disingenuous, on the part of Spain, to escape from the sacred duties of her compact, as it would be unfounded in point of fact."

Gen. Jackson having, in a letter of the 2d of June, 1818, announced the termination of the Seminole war, Mr. Adams, in a letter to De Onis of the 23d of July, informed him that St. Marks and Pensacola would be restored—the latter to any person duly authorized by Spain to receive it. St. Marks, being in the heart of the Indian country, and remote from Spanish settlements, could be surrendered only to a force sufficient to hold it against the attack of hostile Indians, when such force should appear.

The conduct of Gen. Jackson in the prosecution of the Seminole war, was the subject of severe animadversion and of official investigation. He had, it was alleged, violated, in sundry instances, not only the instructions of the war department, but the constitution of the United States. Arbuthnot and Ambrister had, by his order, been tried by a court martial, and found guilty, on the following charges: the former, of exciting the Creek Indians against the United States, and of aiding, abetting, and comforting the enemy, supplying them with the means of war; the latter, of the first of the above charges, and of leading and commanding the lower Creek Indians in carrying on a war against the United States. Arbuthnot was sentenced by the court to be hung; Ambrister to be shot. On a reconsideration of the vote on the sentence of the latter, it was changed to fifty stripes on the bare back, and confinement with a ball and chain, to hard labor for one year. Gen. Jackson, however, disapproved the reconsideration. The evidence against the prisoner being clear, and the law of nations regarding an individual of a nation making

war against the citizens of any other nation as having forfeited his allegiance, and become an outlaw and a pirate, the general ordered him to be shot, agreeably to the first sentence of the court.

The proceedings of Gen. Jackson in the Seminole war were made the subject of investigation by congress at the ensuing session. In the house of representatives, on the 12th of January, 1819, the committee on military affairs, to whom the subject had been referred, made a report, in which they express the opinion, that there is no law authorizing the trial of Arbuthnot and Ambrister before a military court; that there was no *necessity* for the death of the prisoners, the war being virtually at an end; the enemy's strongholds destroyed; the Indians dispersed; the forts in our possession; and the Georgia militia having returned to their homes. The offenses charged were not piracies, which imply offenses on the high seas, of which the court could not take cognizance. Nor did the term "outlaw" apply to the offenders; it applied only to the relations of individuals with their own governments. The reversal of the sentence of the court in the case of Ambrister was also disapproved as contrary to the forms and usages of the army. The committee accordingly submitted the following resolution:

"*Resolved*, That the house of representatives of the United States disapproves the proceedings in the trial of Alexander Arbuthnot and Robert C. Ambrister."

Another paper, drawn up in the shape of a report, but which had been refused by a majority of only one vote, was submitted by R. M. Johnson of the same committee. This paper defended the proceedings of Gen. Jackson, both in the occupation of the Spanish posts, and in the trial and execution of Ambrister and Arbuthnot. Florida, it was said, was no longer neutral territory. The Spanish authorities had, by their own act, made it the seat of war; and having, whether by weakness or partiality, suffered the enemies of the United States to retreat into Spanish territory, to collect strength and provide supplies for a renewal of the conflict, our army had a right, by the law of nations, to pursue the enemy into that territory.

The principle was also asserted, as consonant to the laws of nature and of nations, that when a nation departs from the rules of civilized warfare, "and grossly violates the laws of nations and of humanity, retaliation or reprisals are always justifiable, often useful, and sometimes necessary, to teach the offenders to respect the laws of humanity, and to save the effusion of blood. In such cases, when the guilty persons can be taken and identified, the punishment ought to fall exclusively upon them." Hence, Ambrister and Arbuthnot, for their agency in this savage warfare, might have been lawfully executed, even without the

intervention of a court-martial. The committee, however, expressed the opinion, that it would have been more correct for Gen. Jackson, after having submitted the case to a court martial, to acquiesce in its decision as to the punishment to be inflicted.

On the 8th of February, the question was taken on the report of the military committee and Mr. Cobb's resolutions, which were disagreed to, as follows: On disagreeing to that part of the report which related to the case of Arbuthnot, 108 to 62. On that which related to Ambrister, 107 to 63. A resolution was then moved by Mr. Cobb, declaring the seizure of the Spanish posts at Pensacola and St. Carlos de Barancas to have been contrary to the constitution of the United States. After a motion to postpone its consideration indefinitely had been negatived, 87 to 83, the resolution was disagreed to, 100 to 70.

In the senate the subject was referred to a select committee, who also made a report disapproving the acts of Gen. Jackson. They charge him, first, with having raised his army in disregard of positive orders. The constitution gives to congress "the power to raise armies, and to provide for calling forth the militia to suppress insurrections and invasions;" and in conformity with this provision, congress has authorized the president, on such occasions, to call on the governors or any militia officers of the states for the requisite militia force. Gen. Jackson had been ordered to make such call on the governor of Tennessee; but he had, contrary to orders, himself raised a volunteer force of 1000 mounted gun-men to serve during the campaign. He had also himself appointed the officers, in direct violation of the provision of the constitution, which reserves to the states this power; and five of these officers, created by him, and holding their office at his will, were members of the court martial. The committee saw no necessity of thus hastily increasing the regular army. The whole strength of these undisciplined banditti of Indians and fugitive slaves, did not exceed 1000 men, while under Gen. Gaines, previous to Gen. Jackson's taking the command, there were 1800 regulars and militia, and the 1500 friendly Indians subsidized by the former general.

Gen. Gaines, it was said, had been enjoined, in case the enemy should take refuge under a Spanish garrison, not to attack them there, but to report the fact to the secretary of war. Gen. Jackson having succeeded to the command, ought to have observed the injunction. Having annulled the civil and military government of Spain, he abolished her revenue laws, and established those of the United States, as being more favorable to our commerce; appointed a collector, and instituted a new government, the powers of which, civil and military, were vested in military officers

As Spain had not invaded the United States, nor congress declared war against her, his taking possession of the Spanish posts, and imposing terms of capitulation, were acts of war against that nation which congress alone had power to declare or make. Had Spain violated every article of the treaty, the executive was bound to require its observance on our part, until it should have been annulled or revoked by congress. Her conduct, though it had been deemed by congress good cause of war, would not make her a party to the war: this could be done only by opposing Gen. Jackson by physical force.

The committee also noticed the projected expedition against St. Augustine. More than two months after the war had been terminated, suspecting that the agents of Spain or the officers of St. Augustine had excited the Indians to hostility, and furnished them with means of war, he issued an order to Gen. Gaines, dated Nashville, August 7, 1818, directing him, if evidence of this fact should be obtained, and his force should be deemed sufficient, to take and garrison the fort with United States troops, and to hold the garrison prisoners, until he should hear from the president, or to transport them to Cuba, as he should think best. The general declared the order to rest, "not on the ground that we are at war with Spain, but on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontiers." The committee considered this an assumption of authority to make war on a neutral colony, in disregard of the legislative and executive authorities of the United States. The secretary of war, on receiving a copy of the order, promptly countermanded it. "And then," say the committee, "was arrested a military scheme as unconstitutional as it was impolitic, and which might, as stated by the secretary of war, in his letter of the 8th of September, 1818, have involved this nation in a war with all Europe."

The committee considered the execution of Arbuthnot and Ambrister "as an unnecessary act of severity," without precedent in our conflict with the savages, and dishonorable to our national character. This committee, as that of the house, controverted the principle that these men, by uniting in war against the United States, while we were at peace with Great Britain, "became outlaws and pirates, and liable to suffer death." This principle was not recognized by the custom and usages of civilized nations.

The report was made to the senate on the 24th of February, 1819—too late a day to admit its being acted on during the session, which closed the 3d of March. Strictures written with great ability, strongly animadverting upon the character of the report, and vindicating the general, soon appeared in the newspapers; and at the next session of

congress, Gen. Jackson presented to the senate a memorial in his own defense against the conclusions of the committee's report.

The general alleged, in justification of his proceedings, the discretionary orders from the department of war. He had been directed to act *offensively*—to bring the war to a speedy termination; to inflict exemplary punishment for hostilities so unprovoked; and to establish a peace on such terms as would make it honorable and permanent. Powers more ample could not have been conferred. He was not bound by the orders issued to Gen. Gaines. But even if they had been obligatory, they must have lost their force, as the case they contemplated never occurred. The orders to himself had superseded those directed to Gen. Gaines; he could not therefore be guilty of their violation: and the subsequent approval of his measures by the executive, he considered as settling the question.

The terms of capitulation had been settled by the general government; and he, not as negotiator, but as conqueror of the country, had received their submission on those terms, which demanded the surrender of the instigators of the war.

The occupation of the Spanish posts was necessary to the execution of his orders. The war could not have been effectually terminated while the enemy were assisted and encouraged in their savage hostilities. The authority of Spain over Florida, according to the acknowledgment of her own commanding officers, had ceased; and he was not bound to respect an authority that did not exist—a sovereignty that was not asserted or exercised. The aid rendered the savages was so flagrant a violation of good faith on the part of Spain, as wholly to *merge* the neutral character. Ambrister had appeared before St. Marks with about 500 negroes and Indians; and an equal number had been seen about Pensacola, the most of whom had been equipped for war by governor Magot; a strength sufficient, in both instances, for a forcible occupation of these posts. The governor had refused the passage of provisions up the Escambia for the relief of our starving troops; and the vessels had been detained and captured. Had he waited for additional orders from the war department, the object of anticipating the enemy in obtaining possession of the fort, would have been defeated; the time of the militia force would have expired before any thing efficient could have been done, and the campaign rendered abortive.

These proceedings were not acts of war: they had not been directed against the government of Spain. The Spanish government did not so consider them. The two governments still acknowledged themselves at peace. It would appear from the correspondence, that he had entered the territory of Spain as a *friend*, to chastise an enemy of both nations,

and to enforce obligations and duties which the Spanish authorities had pleaded inability to perform. Nor was it true, as stated by the committee, that the garrisons were made prisoners of war.

As to the new government, nothing more was contemplated than some kind of civil authority to protect the lives and property of the citizens during the temporary occupancy of the fortress. The temporary governor was a military officer; but civil officers were appointed to the different departments from amongst the citizens. The establishment of the revenue laws of the United States became necessary to prevent smuggling, as well as to admit the American merchant to an equal participation in trade, which was denied by the Spanish laws.

The execution of Arbuthnot and Ambrister, he said, was justified by precedent and the laws of nations. They had become identified with the outlawed Red Sticks and fugitive negroes, who were in a state of open rebellion—associates in war, and acting as their chiefs. Great Britain would not interfere in their case; and the Spanish authorities either would not, or could not. Respecting none of the laws of civilized warfare, they could not claim the benefit of these laws, and were as much outlaws to all their provisions as a pirate on the ocean. It should be remembered that these British outlaws and the Indian chiefs were the monsters demanded to be surrendered by the treaty of Fort Jackson, the terms of which had been antecedently settled by the government, ratified by your honorable body, and carried into effect by congress; and that these British incendiaries were the instigators of the war, upon whom "exemplary punishment" was to be inflicted. The rights and privileges secured by the rules and articles of war, belonged only to our own countrymen; and the offenses having been committed by foreigners beyond our territorial limits, the only law applicable to the case was the law of nations, which attaches to their crimes no other penalty than that of death. Hence, the last sentence of the court in the case of Ambrister being deemed void, the first was confirmed and executed.

Gen. Jackson also denied that, in raising the volunteers, he had disregarded the orders of the war department, or the constitution and laws. His orders were to call upon the governors of the adjacent states for such additional force as he might deem necessary to beat the enemy, no number or description of troops having been mentioned. He had been, in the language of the department, "vested with full powers to conduct the war as he might judge best." He cited facts to show that the danger and distress of the frontier settlements and a part of the army were such as to demand immediate relief. As it was not known that the governor was then at Knoxville or in the Cherokee nation, and as there was danger in waiting for the slow process of drafting militia, he had

appealed to his old and tried comrades in arms; and on the same day the governor had been written to, apprising him that, if the appeal for volunteers should not be promptly answered, 1000 drafted militia would be required: and the measure had received the governor's approval and coöperation.

Nor had he, as the committee alleged, appointed the officers; they had, at his own request, been chosen by the volunteers themselves. The appointment of an inspector-general of the southern division, to superintend the organization, and lead them to Fort Scott, where he took the command, was his only agency in the whole transaction. Every measure touching the raising and organizing of the volunteers, had been fully approved by the department. The committee, to make it appear that there was no necessity for this hasty increase of the army, had misstated the number of the enemy. They had been computed by Gen. Gaines at 2,800, and by Arbuthnot at 3,500. So also had the forces under Gen. Gaines been greatly exaggerated.

In vindicating his order for the occupation of St. Augustine, the general admitted that the war had been supposed to be at an end; but subsequent information had proved the opinion to be erroneous. A number of murders and other outrages had been committed. Intelligence from Major Twiggs had created a strong presumption that this post also had become a *dépôt* and retreat for the negroes and Indians after they had been driven from Negro Fort, St. Marks, and Pensacola. The order, however, was conditional and *prospective*; and had the facts reported been established, there would have been the same reason for the occupancy of St. Augustine as of the other Spanish fortresses.

From the foregoing summary of facts and arguments, the reader is left to draw his own conclusions. The character of our public men and that of the nation, are inseparable. What affects the former, necessarily affects the latter. The various public services of Gen. Jackson have given his name a conspicuous place on the roll of our distinguished men. When, subsequent to the transactions here recorded, he was before the public as a candidate for the presidency, the old charges of usurpation of power, and of insubordination to the constitution and the laws, were revived; and many of our citizens formed their opinions of his official acts from representations made at a time and under influences not the most favorable to candid inquiry and calm consideration. It therefore seemed to be due to Gen. Jackson, to give a detailed sketch of his proceedings in the Seminole war, and to allow him the benefit of being heard in self-defense. With regard to the justice of the high charges preferred against him, there was at the time a wide difference of opinion. His acts appear to have been fully justified by Mr. Adams,

as secretary of state, in his correspondence with the Spanish minister and Mr. Erving, our minister to Spain. On the other hand, Mr. Clay, then a member of the house of representatives, zealously advocated the adoption of the resolution of censure reported by the military committee.

Mr. Monroe, in his annual message of November 17, 1818, alluded to this subject as follows: "In authorizing Major-General Jackson to enter Florida in pursuit of the Seminoles, care was taken not to encroach on the rights of Spain. * * * The commanding general was convinced, that he should fail in his object, that he should in effect accomplish nothing, if he did not deprive those savages of the resources on which they had calculated, and of the protection on which they had relied, in making the war.

"Although the reasons which induced Major-General Jackson to take these posts were duly appreciated, there was, nevertheless, no hesitation in deciding on the course which it became the government to pursue. As there was reason to believe that the commanders of these posts had violated their instructions, there was no disposition to impute to their government a conduct so unprovoked and hostile. An order was in consequence issued to the general in command there to deliver the posts; Pensacola, unconditionally, to any person duly authorized to receive it, and St. Marks, which is in the heart of the Indian country, on the arrival of a competent force to defend it against those savages and their associates.

"In entering Florida to suppress this combination, no idea was entertained of hostility to Spain; and however justifiable the commanding general was, in consequence of the misconduct of the Spanish officers, in entering St. Marks and Pensacola to determine it by proving to the savages and their associates that they could not be protected even there; yet the amicable relations existing between the United States and Spain could not be altered by that act alone. By ordering the restitution of the posts, those relations were preserved. To a change of them the power of the executive is deemed incompetent; it is vested in congress only."

This language of the president, considered with the prompt orders to surrender the posts, indicates, on his part, an apprehension that the occupation of these posts was incompatible with a state of neutrality. A revival of this controversy took place during the administration of Gen. Jackson, in which several interesting additional facts were elicited, which will be found in their appropriate place.

A treaty with Spain, concluded at Madrid, August 11, 1802, and ratified by our government, but the ratification of which by Spain had

been withheld for sixteen years, was published by the president on the 22d of December, 1818. This treaty provided for the settlement, by the arbitration of commissioners, of all claims of the citizens of Spain and of the United States, respectively, for losses sustained by the depredations of citizens of the two governments prior to the year 1802. The claims of the United States for spoiliations by French privateers, carrying their prizes into the ports of Spain, during the same period, were not provided for, but reserved for future negotiation.

A treaty with Great Britain was concluded October 20, 1818, at London, by Richard Rush, American minister to the court of Great Britain, and Albert Gallatin, minister to France, on the part of the United States, and Frederick John Robinson and Henry Goulburn, on the part of Great Britain. The ratifications of the two governments having been duly exchanged at Washington, the treaty was proclaimed by the president of the United States on the 30th of January.

By this treaty, the right of our citizens to the eastern fisheries were settled and guaranteed. A line between the territories of the two countries was also determined, viz. : From the most north-western point of the Lake of the Woods to the 49th degree of north latitude, and along the said parallel of latitude to the Rocky Mountains. And any territory claimed by either party on the north-west coast, west of the Rocky Mountains, was, with its harbors and navigable waters, to be free to the use of both parties for the term of ten years. This agreement was to prevent disputes and differences, and not to be construed to the prejudice of the claim of either party to any part of the country. The north-eastern boundary was not settled by this treaty.

As differences had arisen whether, by the true intent and meaning of an article of the treaty of Ghent, the United States were entitled to compensation for slaves within the territory or places occupied by the British forces at the time of the making of the treaty, and directed by that treaty to be restored to the United States; these differences were to be referred to the arbitration of some friendly power. In pursuance of this agreement, the question was subsequently referred to the emperor of Russia, who, on the 30th of June, 1822, gave his decision as follows: That the United States were entitled to indemnification for all the slaves carried away by the British forces from places and territories which the treaty stipulated to restore, in quitting these same places and territories: That all slaves were to be considered as having been ~~su~~ carried away, who had been transferred from these territories to British vessels within the said territories, and who for this reason had not been restored: But that for slaves carried away from territories which the treaty did not stipulate to restore, the United States are *not* entitled to

indemnification. The emperor also appointed two of his privy councillors, Count Nesselrode and Count Capodistrias, together with Henry Middleton, the American minister at St. Petersburg, and Charles Bagot, the British minister at the same place, to provide the mode of ascertaining the value of the slaves, and of other private property unlawfully carried away, and for which indemnification was to be made.

Negotiations on the subject of the long standing disputes between the United States and Spain, were, after the temporary suspension caused by the Florida controversy, resumed, and soon brought to a successful termination. A treaty of amity, settlement, and limits, was concluded at Washington, on the 22d of February, 1819, by John Quincy Adams, secretary of state, and Luis de Onís, the Spanish minister at Washington. By this treaty, Spain ceded to the United States all her territory east of the Mississippi, known by the name of East and West Florida, and a large territory west of that river.

The cession of the Floridas included the adjacent islands dependent on these provinces, with all public lots, buildings, fortifications, and the archives and documents which related directly to the property and sovereignty of the provinces; the archives and documents to be left in possession of the commissioners or officers of the United States authorized to receive them.

West of the Mississippi was ceded the territory east and north of the boundary line running along the west bank of the Sabine, from the gulf of Mexico to the 32d degree of north latitude, being the north-west limit of the state of Louisiana; thence due north to the Rio Roxo of Natchitoches, or Red River; thence following the same westward to longitude 100 degrees from London, and 23 from Washington; then crossing Red River and running thence due north to the river Arkansas; thence along the southern bank of the same to its source, in latitude 42 degrees north; and thence by that parallel of latitude to the South Sea, (Pacific;) the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved on the 1st of January, 1818. But if the source of the Arkansas should be found to be north or south of latitude 42, then the line was to run from the said source north or south to that latitude, and thence along the said parallel to the South Sea. All the islands in the Sabine, Red, and Arkansas rivers were to belong to the United States; but the use of the waters and the navigation of the Sabine to the sea, and of the Red and Arkansas throughout the extent of the said boundary, on their respective banks, were to be common to the inhabitants of both nations.

The inhabitants of the ceded territories were to be secured in the free exercise of their religion; and they were to be incorporated into the

union as soon as might be consistent with the principles of the federal constitution, and to be admitted to the enjoyment of all the rights, privileges and immunities of the citizens of the United States.

The United States stipulated to pay out of the proceeds of the sales of lands in Florida, or in stock or money, as congress should prescribe, to our own citizens, on account of spoliations and other injuries received by them from the government of Spain, or from the governments of her colonies, a sum not exceeding *five millions of dollars*; the amount of the claims to be ascertained by a board of three commissioners, citizens of the United States, to be appointed by the president and senate, and and to make their report within three years. All other claims on each other for spoliations or other injuries, were mutually renounced by the two governments.

Spanish vessels laden only with productions of Spanish growth or manufacture, direct from the ports of Spain or her colonies, were to be admitted for the term of twelve years, to the ports of Pensacola and St. Augustine, on the same terms as vessels of the United States; the twelve years to commence three months after the exchange of the ratifications of the treaty.

This treaty, of which these are the most essential provisions, was hailed throughout the country as a satisfactory termination of the tedious, unpleasant negotiations with Spain. The National Intelligencer, in announcing the ratification of the treaty by the senate, said: "It terminates the only existing controversy with any of the European powers. It rounds off our southern possessions, and forever precludes foreign emissaries from stirring up Indians to war and negroes to rebellion, whilst it gives to the southern country important outlets to the sea. It adjusts the vast western boundary, acknowledging the United States to be sovereign, under the hitherto contested Louisiana treaty, over all the territory we ever seriously contended for. In a word, it is a treaty than which the most sanguine have not anticipated one much more favorable; it is one that fully comes up to the expectations of the great body of the American people."

A few days after the treaty was concluded, in expectation of its prompt ratification on the part of Spain, a law was passed in pursuance of a recommendation of the president, for the occupation of Florida. The anticipated ratification, however, which by a provision of the treaty was to have taken place, and ratifications exchanged, within six months from its date, was, for reasons unknown to our government, delayed by Spain long beyond that time.

During this period of suspense there was much speculation as to the cause of the delay. Some ascribed it to the interference of the British

government, which was averse to the cession of the Floridas to the United States; and it was suspected that a secret arrangement was in progress between the governments of Spain and Great Britain to prevent the stipulated transfer of the treaty. It was rumored on the authority of letters from abroad, that, to an existing treaty between England and Spain, certain secret articles were attached really ceding Florida to Great Britain, on consideration that she should guaranty to Spain her other American colonies. Apprehensions of a war between the United States and Spain prevailed in England and France, as well as in this country; and certain movements under the direction of our government, were regarded as indications of a design to be prepared for such an emergency.

Many of our citizens were in favor of taking possession of the territory without waiting farther for the ratification, believing that the act would be justified by the unredressed injuries we had suffered. At length, pursuant to the recommendation of the president in his annual message, the committee on foreign relations, on the 8th of March, 1820, made a report on the subject, accompanied by a bill, "requiring the president to take possession of and occupy the territories of East and West Florida." But before any decisive action was taken upon the bill, information having been received by the president, that a new minister had been appointed to the United States with power to settle all differences, and the governments of England, France and Russia having interposed their good offices to promote the ratification of the treaty, as well as expressed a desire that our government would delay any measure tending to disturb the peace between the United States and Spain; the president communicated the same to congress, with the suggestion to postpone a decision on the questions depending with Spain, until the next session.

The new minister, General Vives, arrived about the first of April. He mentioned, as reasons sufficiently valid to exonerate the king from the obligation of ratifying the treaty, the hostility pursued against the Spanish dominions, and the property of their inhabitants, by American citizens; the decisions of several courts of the union; and the criminal expedition set on foot for the invasion of the Spanish possessions in North America, when the ratification was still pending. Upon these points he asked for explanations, and a pledge to take measures to repress these excesses, and to prevent any invasion of Spanish possessions; and to form no relations with the revolted Spanish provinces in South America. These demands, he said, would have been long since communicated through our minister at Madrid, (Mr. Forsyth,) if he had not expressed himself in terms disrespectful to his majesty.

Explanations, satisfactory to General Vives, were made by Mr

Adams on the points presented, except that relating to the southern provinces, our government being unwilling to contract an engagement not to form any relations with them. The answer to this point was communicated to the king; and, if it should be received by him as satisfactory, the treaty would probably be ratified. The ratification took place on the 24th of October, 1820; and the treaty was proclaimed by the president on the 22d of February, 1821, precisely two years from its date

CHAPTER XXII.

INVESTIGATION OF THE AFFAIRS OF THE UNITED STATES BANK.—OPINION OF THE SUPREME COURT ON ITS CONSTITUTIONALITY.—DECISION OF THE CIRCUIT COURT.—JUDICIAL DECISION ON BANKRUPT LAWS—QUESTION OF INTERNAL IMPROVEMENTS.

THE public mind had become much excited by the refusal of the bank of the United States to receive the notes of its branches, except in payment of debts due to the United States, and by sundry acts of alleged mismanagement on the part of the directors highly injurious to the public interest. The dissatisfaction with the bank had become so general as to induce congress to institute an investigation of its affairs and management.

The inquiry was moved by John C. Spencer, of New York, on the 25th of November, 1818, who, as chairman of the committee of investigation, on the 16th of January, 1819, made a very elaborate report, reviewing minutely the transactions of the bank, and expressing the opinion that it had in several instances violated its charter. The committee also reported a bill for the better regulation of the election of the directors. No other remedial measures were recommended, as, by the provisions of the charter, the secretary of the treasury had full power to apply them, which it was presumed would be done, should the directors persist in a course of conduct which should require it.

Subsequently, February 1, the same gentleman presented a resolution requiring the corporation, on or before the 1st of July, to declare their consent to certain propositions providing more stringent regulations in the management of its affairs; and in case of non-compliance, the secretary of the treasury was required to cause all the public deposits to be withdrawn from the bank and its branches on that day, and the attorney-general was required to sue out a writ of *scire facias*, in conformity with

its charter, calling upon the corporation to show cause why its charter should not be declared forfeited.

A proposition was made by Mr. Johnson, of Virginia, to repeal the charter; which was opposed by Mr. Spencer. The immediate destruction of the bank, he said, would ruin thousands who had become its debtors, and inflict a wound upon the public credit, and tarnish the national faith abroad. The resolutions on the subject were referred to the committee of the whole on the bank report, all of which were subsequently withdrawn, or disagreed to, and the bill reported by Mr. Spencer, with amendments designed to render its provisions more effectual, was passed. It was believed the bank had been too much managed in a spirit of speculation. Reformation, however, and not destruction, appears to have been the desire even of those most unfriendly to the institution.

There was about this time a general depreciation of state bank paper; and many of the state banks were compelled to suspend specie payments. The greatest pressure prevailed in the south-western states.

In March, 1819, was decided in the supreme court, the case of *M'Culloh* against the state of Maryland, involving the question of the power of a state to impose a tax on a branch of the bank of the United States. The plaintiff was president of the branch bank in Maryland, which had been taxed under a law taxing the banks of that state. This cause, in the opinion of the court, presented two questions: (1.) Has congress power to incorporate a bank? (2.) Can a state, without a violation of the constitution, tax a branch bank?

The first of these questions was decided in the affirmative. The arguments upon which the decision was founded, are substantially those by which the constitutionality of the banks of 1791 and 1816 were maintained in congress. [See bank of the United States.]

In construing the constitution, the counsel for the state of Maryland considered it, not as having emanated from the people, but as the act of sovereign and independent states. And the powers of the general government were delegated by the states, and must be exercised in subordination to the states, who alone were supreme. The convention which framed the constitution, the court said, was indeed elected by the state legislatures. But it was a mere proposal without obligation, until it had been submitted, not to the state governments, but to a convention of delegates in each state chosen by the people, for their assent and ratification. Hence the adoption of the constitution was properly considered the act of the people themselves. The confederation, which was a mere league, was formed by the state sovereignties. The "more perfect union" under the constitution was the act of "the people of the United States."

The government is one of enumerated powers, and possesses those only which are granted to it. But, though limited in its powers, it is supreme within its sphere of action. Among its enumerated powers is not that of establishing a bank, or creating a corporation. But there is no phrase in the instrument which excludes incidental or implied powers. The confederation authorized the exercise of such powers only as were expressly granted. But the word "expressly" was omitted in the constitution. It was not even inserted in the 10th article of amendment, which was framed to quiet the jealousies which had been excited against that instrument.

The great powers having been given to lay and collect taxes, to borrow money, to regulate commerce, to declare and conduct a war, and to raise and support armies, it must be for the interest of the nation to facilitate the execution of these powers. And it was not to be presumed, the court said, that the express grant of these powers was intended to clog and embarrass their execution by withholding the most appropriate means. As the constitution does not profess to prescribe the means of executing its powers, the government is left to a choice of means. Hence, a corporation, if it is essential to a beneficial exercise of granted powers, may be created for this purpose.

Congress has "power to make all laws which are necessary and proper for carrying into execution the foregoing powers," &c. It was contended that this did not authorize, in all cases, the choice of means, but the passing of such laws only as were absolutely indispensable, and without which the powers granted could not be executed. It was maintained, on the contrary, by the court, that the word "necessary" did not always import an absolute physical necessity; that in common use it meant no more than that one thing is convenient, or useful, or essential to another; that it had not a fixed character peculiar to itself; but that, like many other words, it admitted of all degrees of comparison. . . . A thing might be necessary, very necessary, or absolutely or indispensably necessary. The constitution prohibits a state from laying "imposts, or duties on imports or exports, except what may be *absolutely* necessary for executing its inspection laws." The word "absolutely" being here inserted, it was evident the framers intended to give a different meaning to the word "necessary" in this place from that given to it when granting power "to make all laws necessary and proper for carrying into execution" the powers of the general government.

Against the right of a state to tax the bank, it was argued, that, if congress could create, it could of course continue a bank. But the power of taxing it by the states might be so exercised as to destroy it. Taxation had been claimed, on the part of the state, as an absolute power

and, like other sovereign powers, was trusted to the discretion of those who used it. But the sovereignty of the state, in the article of taxation itself, is subordinate to, and may be controlled by, the constitution of the United States.

It was contended on the part of the state of Maryland, not that the states may resist a law of congress, but that they may exercise their acknowledged powers upon it; and that the constitution leaves them this right in the confidence that they will not abuse it.

The court admitted that the power of taxation was essential to the very existence of government, and might be exercised on objects to which it was applicable, to the utmost extent to which the government might choose to carry it. And the fact that, in imposing a tax, the legislature acts upon itself, as well as upon its constituents, and the influence of the latter over their representatives, were deemed a sufficient security against the abuse of this unlimited power of taxation given by the people of a state to their government. But the sovereignty of a state extends only to what exists by its own authority, but not to the means employed by congress to carry into execution powers conferred on that body by the people of the United States. These powers are not given by the people of a single state, but by the people of *all* the states, to a government whose laws, made in pursuance of the constitution, are declared to be *supreme*. The people of a state, therefore, can not confer a sovereignty which will extend over them. Besides, if the states might tax one instrument employed by the government in executing its powers, they might tax any and every other. They might tax the mails, the mint, patent rights, papers of the custom-house, judicial process, and all other means employed by the government, to an excess which would defeat all the ends of government.

In view of these and other reasons, the court unanimously declared the law of Maryland imposing a tax on the bank of the United States, unconstitutional and void. This opinion, however, did not deprive the states of any resources which they originally possessed. The real property of the bank, and the interest held in the bank by citizens of Maryland, were liable to taxation.

Another case of taxation occurred in the state of Ohio; and a suit was brought before the United States circuit court by the bank against the officers of the state for the recovery of the money. A law had been enacted in that state, by which it was provided, that, if the branches at Cincinnati and Chillicothe did not cease their operations by the first of September, 1819, a tax of \$100,000 should be levied on the bank. On the 15th of September, a bill in chancery, issued from the United States circuit court, was served on the auditor of the state, who was directed to answer to the bill of complaint, praying for an injunction against his

proceeding under the law of the state to tax the bank of the United States. On the same day, the auditor proceeded to charge the bank with the sum of \$100,000; one-half on each of the branches above mentioned, and directed the tax to be collected. The collector, with two assistants, entered the branch at Chillicothe, and demanded payment, which was refused; whereupon they entered the vaults, and took out specie and paper to the amount of \$100,000, and conveyed the money to the state treasury.

A protracted litigation ensued. A communication on the subject was made by the state auditor to the legislature, and resolutions, reported by a joint committee, were adopted by large majorities, (1.) Approving the doctrines of the Virginia and Kentucky resolutions of 1798 and 1799. (2.) Protesting against the doctrines of the federal circuit court sitting in that state as being in direct violation of the 11th amendment of the constitution of the United States. (3.) Asserting, and resolving to maintain, the right of the states to tax the business and property of any private corporation of trade incorporated by congress, and transacting its business within any state. (4.) Declaring the bank of the United States to be a private corporation of trade. (5.) Protesting against the doctrine, that the political rights and powers of the separate states, may be settled in the supreme court of the United States, so as to conclude and bind them, in cases contrived between individuals, and in which none of them is a party direct.

A decision was at length made, September, 1821, in the circuit court of the United States, decreeing the restoration of the \$100,000 which had been seized, with interest on the specie part of it, (the specie being nearly \$20,000,) and granting a perpetual injunction against the collection of any tax in future under the act of Ohio.

Another important decision of the supreme court about this time, was on the question of the constitutionality of state bankrupt and insolvent laws. The case was that of *Sturges against Crowninshield*; the defendant pleading a discharge under "an act for the benefit of insolvent debtors and their creditors," passed by the legislature of New York in 1811.

On the several questions which arose in this case, the opinions of the court were, (1.) That, in the absence of any uniform laws of congress on the subject of bankruptcies, authorized by the constitution, the states may pass a bankrupt law, provided that it does not violate that provision of the constitution which declares, that "no state shall pass any law impairing the obligation of contracts." (2.) That the law of New York, which not only liberates the person of the debtor, but discharges him from all liability for any debt previously contracted, on his surrendering his property, is clearly a law impairing the obligation of contracts.

The court made a distinction between the *obligation* of a contract and the *remedy* to enforce that obligation. The remedy might be modified without impairing the obligation. Hence, a law requiring the imprisonment of an insolvent debtor may be repealed. Imprisonment of an insolvent debtor being no part of the contract, the relief of the prisoner does not impair its obligation.

This construction of the constitution did not extend to statutes of limitation, and laws against usury. Statutes of limitation relate to the remedies furnished in the courts, and establish that certain circumstances shall amount to evidence that a contract has been performed, rather than dispense with its performance. But if a law were passed which should limit to six years the obligation of a contract previously made, there would be little doubt of its unconstitutionality. And so with respect to usury and other laws. So far as they affect contracts already made, they are deemed unconstitutional and void.

The subject of internal improvements by the general government, has received the attention of our statesmen from an early period of the government under the constitution; and has often been elaborately discussed in congress, and in documents emanating from the highest official sources. In 1807, the attention of the senate was directed to this subject; and in pursuance of a resolution of that body, the secretary of the treasury, Mr. Gallatin, made an able and valuable report. And reports have since been made, at different times, recommending some system of internal improvements.

On the 3d of March, 1817, the day which terminated the 14th congress and Mr. Madison's administration, the bill was returned with the executive veto, on the ground of its unconstitutionality.

Anticipating a revival of the subject of internal improvement, Mr. Monroe, in his first annual message, took occasion to express his opinion in advance, against the right of congress to establish such a system of improvement. Owing, probably, to these executive communications, the subject, for several years, seems to have received little attention from congress.

At the session of 1821-1822, memorials and petitions from several states, soliciting the aid of the general government in works of internal improvement, were presented to congress, and referred to the committee on roads and canals in the house of representatives, who, on the 2d of January, 1822, made a favorable report, designating the "national objects which, in the opinion of the committee, claim the first attention of the government." With the report was a bill, authorizing the president to cause to be made the necessary surveys, plans, and estimates of these objects, and of such other routes for roads and canals as he might deem of national importance in a commercial or military point of view.

Among the advantages of a well regulated system of internal improvements, the committee, in their report, mention the "regular trade in the exchange of manufactured articles for raw materials," which would take place, and the "nation's receiving within itself the whole benefit usually gained between old and new countries;" it being admitted by the ablest writers on political economy, that the most important branch of the commerce of a nation was that which is carried on between the inhabitants of the towns and those of the country. This trade was attended with less risk than the foreign, which is always liable to be disturbed by war and the fluctuating policy of other nations. The various talents and inclinations of the citizens would be called into activity, and a greater amount of labor insured to the nation; and the ready intercourse between the different parts of the country, would produce an identity of interest and fraternity of feeling, which would strengthen the bonds of the union. The lines of communication contemplated would benefit nearly every state in the union; yet no one or two states had sufficient inducements to furnish the means to construct any one of these works. Objects so important to the welfare and defense of the nation must be made by the general government, or their construction was scarcely to be expected.

In an additional report, (April 26,) the committee expressed the opinion, that the time had arrived when the national improvements ought to be commenced; and pointed out their benefits to the nation. They considered the national resources sufficient at least to commence the surveys and estimates of the more important works, which would require several years; and as our finances should improve, the improvements might be prosecuted to completion. The committee did not enter largely into a discussion of the power of congress on the subject. They believed, however, that the constitution alone could confer the power; and that the consent of the states was not necessary to its constitutional exercise. If congress had no power to construct roads and canals, and maintain a control over them, it had no power to purchase lands for the purpose of making them; but it had been the practice of congress to allow to the new states five per cent. of the proceeds of the sales of public lands to be laid out in the construction of roads and canals; three-fifths having been generally expended within the states, and two-fifths under the direction of congress, in making roads leading to the states. The committee mentioned several works authorized during the administrations of Mr. Jefferson and Mr. Madison, one of which was the opening of a road passing through a state, and without asking its consent. And they asked: "How is it possible to reconcile these acts with the idea that congress possesses no power to construct roads and canals?"

The committee, to strengthen their positions, alluded also to the report of the secretary of war, (Mr. Calhoun,) of the 7th of January, 1819, in compliance with a resolution of the house of representatives adopted at the preceding session, instructing him to report at the next session "a plan for the application of such means as are within the power of congress for the purpose of opening and constructing such roads and canals as may deserve and require the aid of government, with a view to military operations in time of war;" together with such information on the subject as he might deem material to the objects of the resolution.

The secretary, in his report, did not discuss the constitutional question; his object being chiefly to show the utility of a system of roads and canals, and to designate the several routes in different parts of the union, which he deemed essential to the defense and prosperity of the nation. From the general tenor of the report, however, it has been inferred, that he considered the construction of the works therein mentioned within the power of congress. He said: "A judicious system of roads and canals, constructed for the convenience of commerce, and the transportation of the mail only, without any reference to military operations, is itself among the most efficient means for 'the more complete defense of the United States.' Without adverting to the fact, that the roads and canals which such a system would require, are, with few exceptions, precisely those which would be required for the operations of war, such a system, by consolidating our union, increasing our wealth and fiscal capacity, would add greatly to our resources in war."

Referring to the difficulties experienced during the late war, from the want of these improvements, he said: "As it is the part of wisdom to profit by experience, so it is of the utmost importance to prevent a recurrence to a similar state of things, by the application of a portion of our means to the construction of such roads and canals as are required 'with a view to military operations in time of war, the transportation of the munitions of war, and the more complete defense of the United States.' " And in carrying out the plan, he suggested "as the basis of the system, and the first measure in the plan, that congress should direct such survey and estimate to be made, and the result to be laid before them as soon as practicable."

The committee did not deem it expedient to recommend the immediate prosecution of any work, and concluded their report with a resolution, declaring it expedient at present only to procure the surveys, plans and estimates proposed by the bill. This bill, however, did not become a law.

At the same session, a bill "for the preservation and repair of the Cumberland road," passed by both houses, was returned to the house of representatives by the president, with the objection "that congress do

not possess the power, under the constitution, to pass such a law." The substance of his objection is contained in the following paragraph :

" A power to establish turnpikes with gates and tolls, and to enforce the collection of tolls by penalties, implies a power to adopt and execute a complete system of internal improvement. A right to impose duties to be paid by all persons on a certain road, and on horses and carriages, as is done by this bill, involves the right to take the land from the proprietor, on a valuation, and to pass laws for the protection of the road from injuries ; and if it exists as to one road, it exists as to any other, and to as many roads as congress may think proper to establish. A right to legislate for one of these purposes, is a right to legislate for the others. It is a complete right of jurisdiction and sovereignty for all the purposes of internal improvement, and not merely the right of applying money, under the power vested in congress to make appropriations, under which power, with the consent of the states through which this road passes, the work was originally commenced, and has been so far executed. I am of opinion that congress do not possess this power ; that the states, individually, can not grant it : for, although they may assent to the appropriation of money within their limits for such purposes, they can grant no power of jurisdiction or sovereignty, by special compacts with the United States. This power can be granted only by an amendment to the constitution, and in the mode prescribed by it."

The president did not, in this message, assign the reasons on which his objections were founded, but alluded to a paper expressing his sentiments, which he had occasionally, as his attention had been drawn to the subject, committed to writing. This paper, one of the longest ever communicated to congress, was, on the same day, transmitted to the house. It contains a very elaborate review of the articles of confederation and the constitution, tracing the origin of the state and national governments, and critically examining their respective powers. And the conclusion at which the president arrived was, that congress had not the right to adopt and execute a system of internal improvement ; but not doubting " that improvements for great national purposes would be better made by the national government than by the governments of the several states," he expressed the opinion, that " an amendment to the constitution ought to be recommended to the several states for their adoption."

CHAPTER XXIII.

THE MISSOURI COMPROMISE.—ADMISSION OF MAINE AND MISSOURI INTO THE UNION.

DURING the session of 1819–20, was passed the act to admit the new state of Missouri into the union. A bill for this purpose had been introduced at the preceding session. In its progress in the house, Gen. Tallmadge, of New York, moved an amendment prohibiting the farther introduction of slavery within the territory, and requiring that all children born therein after its admission, should be free at the age of twenty-five years. The amendment was adopted by a vote of 73 to 67, but was disagreed to in the senate; and the bill was lost.

At the next session, (December 7, 1819,) a memorial from the people of the district of Maine, until then a part of the state of Massachusetts, praying to be admitted into the union on an equal footing with the original states, with a copy of the constitution formed for the state, was presented to the house. At the same time was presented a memorial from the people of Missouri, asking to be authorized to form a constitution, and to be admitted as a state. A bill for the admission of Maine passed the house without material opposition. In the senate its progress was arrested by Mr. James Barbour, of Virginia, who moved an amendment (February 3d,) coupling it with the bill for the admission of Missouri without any restriction as to slavery. This gave rise to a debate which continued till near the close of the session, and terminated in the famed "Missouri compromise."

In the house on the 26th of January, Mr. Taylor, of New York, moved an amendment to the Missouri bill of that body, interdicting slavery in the state; providing, however, that fugitive slaves might be reclaimed within the same, and that the provision should not alter the condition of those already held as slaves in the territory. In the house also the debate was long and animated.

On the 16th of February, in the senate, the proposed junction of the two states into one bill was decided in the affirmative, 23 to 21; all the senators being present and voting. From the free states, Edwards and Thomas, the two senators from Illinois, and Taylor, of Indiana, voted in the affirmative; and from the slave states, the Delaware senators, Horsey and Van Dyke, voted in the negative.

Mr. Thomas, of Illinois, then offered an amendment to the Missouri branch of the bill, proposing to prohibit slavery in all that territory ceded by France to the United States, under the name of Louisiana,

lying north of 36 1-2 degrees north latitude, except within the limits of the proposed state of Missouri. The next day the amendment was adopted, 34 to 10; and the bill was ordered to a third reading, 24 to 20. From the free states, those who voted in the affirmative, were Edwards and Thomas, of Illinois, Hunter, of Rhode Island, and Parrott, of New Hampshire. From slave states, Macon, of North Carolina, and Smith, of South Carolina.

On the 23d of February, the Maine bill having been returned to the house, the amendments of the senate were disagreed to; the proposition to annex the Missouri bill to the Maine bill, by a vote of 93 to 72, and the compromise section, 159 to 18: and a message announcing the fact was sent to the senate. On the 28th, the senate refused to recede from its amendments; that providing for the admission of Missouri being adhered to by a vote of 23 to 21; and that inhibiting slavery, by 33 to 11: and the house was informed of the determination of the senate to insist on its amendments. On the same day, the house again voted to insist on their disagreement to the amendments; to the first, 97 to 76; to the last, embracing the compromise, 160 to 14: and the senate was informed of the determination of the house to disagree. The senate, then, on motion of Mr. Thomas, appointed a committee of conference, consisting of Messrs. Thomas, Pinckney and Barbour. The conference was the next day (29th) agreed to by the house, and a committee of five appointed, consisting of Messrs. Holmes, Taylor, Lowndes, Parker, of Massachusetts, and Kinsey.

In the house of representatives, the Missouri bill as amended in committee of the whole, including the amendment moved by Mr. Taylor the 26th of January, was ordered to a third reading, 93 to 84; and on the next day, (March 1st,) was passed, 91 to 82, and sent to the senate for concurrence, when, the next day, the restrictive clause was stricken out, and the senate's compromise clause inserted, and returned to the house of representatives. The house, before any vote was taken upon it, received the report of the conference, which recommended, (1.) That the senate recede from its amendments to the Maine bill, that is, detach from it the Missouri branch; (2.) That both houses strike out of the Missouri bill the restriction upon the state; (3.) A restriction on all other territory north of 36 degrees 30 minutes. The committee of conference was unanimous in this report, with the exception of Mr. Taylor, of the committee on the part of the house, who did not concur in striking out the restriction.

The question was first taken on striking out the restriction upon the state, and decided in the affirmative, 90 to 87; the speaker not voting, and 8 absent, including Mr. Walker, of Kentucky, deceased.

If, as was presumed, five of the absentees, if they had been present, would have voted against concurring, and the other two who were living would have voted for concurring, the question would have been determined by the vote of the speaker. Before taking the question on the second amendment of the senate, (the compromise,) Mr. Taylor moved an amendment by striking out the words, "36 degrees 30 minutes north latitude," and inserting a line which would exclude slavery from all the territory west of the Mississippi, except Missouri and Arkansas, and the state of Louisiana. To avoid taking the question on this amendment, some member moved the previous question. The motion having been sustained, the main question was taken on concurring with the senate in inserting the clause inhibiting slavery north of 36 degrees 30 minutes north latitude, and decided in the affirmative, 134 to 42.

The advocates of the unrestricted admission of Missouri contended that the prohibition of slavery would place her on an unequal footing with the other states. By the treaty ceding Louisiana to the United States, the inhabitants were to "be incorporated into the union, and to be admitted, as soon as possible, according to the principles of the constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States;" and congress was bound, in good faith, to admit Missouri without imposing upon her citizens terms to which they did not consent. Congress had not the right to prescribe the terms of admission. The general government had no constitutional right to interfere with the municipal policy of a state, farther than was necessary and proper to carry into effect the powers expressly granted to that government. The constitution declared, that "the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." The right to hold slaves was one of these rights; and the guaranty applied to the new states as well as to the original states. It was conceded that the right of congress to admit new states, implied the power to refuse admission; but it did not give the right to impose the terms of admission.

In support of the restriction it was said, that congress, under the "power to dispose of and make all needful rules respecting the territory and other property of the United States," had passed laws for the survey and sale of the public lands, and the division of them into territories, and had established governments in them. The power to make needful rules and regulations includes the power to determine what regulations are necessary, and consequently, the power to prohibit slavery, if such prohibition shall be deemed a needful regulation. It was said, too, that the power to admit new states was conferred without limitation; and congress *might* admit them at discretion as to time, terms and cir-

cumstances. No new state could, *of right*, demand admission, unless the demand was founded on some previous engagement with the United States. Hence, the prohibition of slavery might be made a condition of admission.

It was said, farther, that the exercise of this power had been sanctioned by congress. The ordinance of 1787, prohibiting slavery in the North Western Territory, passed by the old congress, had been ratified by the new congress at their first session under the constitution; and new states had been admitted in conformity to the "articles of compact" embraced in the ordinance, one of which was that which excluded slavery. Virginia, North Carolina, South Carolina, and Georgia had, by the unanimous vote of their delegates, approved that ordinance. North Carolina must have supposed that congress possessed the power to prohibit slavery in the new territory, having made the grant upon the express condition, "that no regulation made, or to be made by congress, should tend to emancipate slaves." Georgia, also, in ceding the Mississippi territory, had made a similar exception.

It was also said to be an error to represent Missouri as now entitled to the rights and prerogatives of a state. These she would not have until she had a constitution sanctioned by congress, and an act of admission had been passed.

In reply to those who claimed for the people of Missouri the right to judge for *themselves* in the matter of excluding slavery, it was said, that congress had a right to judge whether it would be for the good of the union to admit new states in which slavery should be permitted. The interests of the whole nation were affected by the character and condition of those who were to be members of the political family.

It is unnecessary to observe, that in a debate of nearly two months' duration, a large number of members must have participated. Among the senators who took a prominent part in the discussion, were King, of New York, Morrill and Burrell, of New Hampshire, Mellen, of Massachusetts, Roberts and Lowrie, of Pennsylvania, in favor of the proposed restrictions; and Barbour, of Virginia, Smith, of South Carolina, Macon, of North Carolina, and Thomas, of Illinois, in opposition. In the house, John W. Taylor, of New York, Edwards, of Connecticut, Fuller and Cushman, of Massachusetts, Plumer and Claggett, of New Hampshire, Hendricks, of Indiana, and Sergeant, of Pennsylvania, in favor of restriction; and Holmes, of Massachusetts, (District of Maine,) Baldwin of Pennsylvania, Clay, of Kentucky, Randolph, Tyler and Smyth, of Virginia, Lowndes and Pinckney, of South Carolina, and McLane, of Delaware, in opposition.

The bill for the admission of Maine having become disconnected from

the Missouri bill, all obstruction to its passage was removed; and the people of the district having already adopted an approved constitution, the act of admission was complete. Different, however, was the case of the people of Missouri. Their constitution was not presented until the next session. On the 23d of November, 1820, Mr. Lowndes, of South Carolina, from the committee to whom it was referred, in their report to the house, alluded to a provision which directed the legislature to pass laws "to prevent free negroes and mulattoes from coming to, or settling in, the state," which might be construed to apply to persons of this class who were citizens of the United States, and whose exclusion was deemed repugnant to the federal constitution, which declares that "the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states." But the committee, preferring to leave this question for judicial decision whenever a case requiring it should arise, reported a resolution for the admission of Missouri.

On the 29th, a committee of the senate, Mr. Smith, of South Carolina, chairman, reported a similar resolution. Mr. Eaton, of Tennessee, who seems to have entertained doubts of the constitutionality of the clause alluded to in the report of the committee of the house, moved and obtained a postponement; and, on the 6th of December, offered a proviso to the resolution, that nothing contained therein should be so construed as to give the assent of congress to any provision in the constitution of Missouri, which contravened that clause of the constitution of the United States which declares, that "the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states." The question on this amendment was postponed to the next day; when Mr. King, of New York, objected to the proposed amendment, expressing the opinion that the proviso would not weaken the effect of the offensive article; and the senate, after having negatived a substitute offered by Mr. Wilson, of New Jersey, rejected Mr. Eaton's amendment, 21 to 24. The question then recurred on the resolution itself, and, after some debate, was postponed until the next day, and was not taken until the 11th. Before taking the question, Mr. Eaton again offered his proviso, which was adopted by a bare majority; and the resolution so amended, was agreed to, 26 to 18. With the exception of Mr. Macon, of North Carolina, all those who voted in the negative were from the free states. From the free states voting in the affirmative, were, Chandler and Holmes, of Maine, Edwards and Thomas, of Illinois, Parrot, of New Hampshire, and Taylor, of Indiana.

In the house, Mr. Lowndes' resolution was taken up for consideration on the 6th, and debated until the 13th, when the question was taken, and the resolution rejected, 79 to 93. Besides negativing one or two

proposed amendments similar to that adopted in the senate, no farther proceedings were had upon the subject, until the 29th of January, 1821, when the amended resolution of the senate was taken up. Mr. Clay supported the resolution. Mr. Randolph moved to strike out the proviso; and amendments were subsequently proposed, at different times, by Messrs. Foot, of Connecticut, Storrs, of New York, S. Moore, of Pennsylvania, and M'Lane, of Delaware, designed to annul or expunge the offensive clause—all of which were rejected.

On the 2d of February, Mr. Clay, anxious to make a last effort to settle the question, moved to refer the senate's resolution to a committee of thirteen. The committee was appointed, Mr. Clay being chairman, who, on the 10th, reported an amendment, admitting Missouri on condition that the state never pass a law excluding from the state any persons the citizens of any other state of the union; and upon the assent of the legislature of Missouri to this condition, communicated to the president on or before the fourth Monday in November next, he was to proclaim the fact; and the admission of the state was to be thereupon complete. The question, after a long debate in committee of the whole, was taken on the amendment, (Feb. 12,) and decided in the negative, 64 to 73; and, after rejecting a motion of Mr. Storrs to postpone the subject indefinitely, the question was taken, in the house, on concurring with the committee of the whole in its disagreement to the report of the select committee, and by a vote of 83 to 86, the house refused to concur; and the amendment of the select committee was agreed to. But on taking the question on ordering the resolution to a third reading, a few members being absent, it was lost, 80 to 83. So the whole resolution, with the amendment, was rejected.

The next day, (13th,) Mr. Livermore of New Hampshire, moved to amend the journal of yesterday's proceedings, by striking therefrom the order "that the clerk acquaint the senate with the decision of the house," that he might move a reconsideration of the decision; and the motion was agreed to. The question on reconsideration was decided in the affirmative, 101 to 66. But the question on ordering the resolution to be engrossed and read a third time, was lost, 82 to 88.

In the house, on motion of Mr. Clay, on the 20th, a committee was appointed to meet a committee on the part of the senate, to consider and report on the expediency of providing for the admission of Missouri, &c. On the 26th of February, Mr. Clay, the chairman of this committee, reported a resolution, providing "that Missouri shall be admitted into the union on an equal footing with the original states, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said

state to congress, shall never be construed to authorize the passage of any law, by which any citizen of either of the states of this union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the constitution of the United States." And the legislature was required, by a public act, to declare the assent of the state to this condition, and to transmit to the president of the United States, on or before the fourth Monday of November next, an authentic copy of the act; and upon the public announcement of this fact by the president, the admission of the state was to be considered complete.

The resolution had its several readings the same day, and was passed; ayes, 87; noes, 81. It was sent to the senate, and concurred in by that body on the 28th, 28 to 14.

Thus was consummated a measure which, in respect to the excitement it produced, and its influence upon our national destiny, has no parallel in the history of our government. The whole country was agitated. In anticipation of a renewal of the application of Missouri for admission into the union, public meetings were held in Boston, New York, Trenton, Philadelphia, Baltimore, and many other places; and the question of slavery—its effects upon the public prosperity, the power and duty of the general government in relation to it, and the means of preventing its extension, were discussed. Resolutions deprecating the introduction of slavery into new states were adopted; and memorials to congress, remonstrating against the admission of Missouri with a constitution permitting slavery, were extensively circulated. The legislatures of several states also passed resolutions on the subject, asserting the right of congress to require of new states the prohibition of slavery as a condition of their admission into the union, and requesting their senators and representatives in congress to oppose the admission of any state with a constitution permitting slavery. The states whose legislatures expressly declared the constitutional power of congress to impose the terms of admission, were New York, New Jersey, Pennsylvania, and Delaware.

Nor was the excitement less intense in the southern than in the northern states. Alarmed by the attempt made at the preceding session of congress to impose upon Missouri the restriction of slavery as one of the terms of her admission into the union, active exertions were made to counteract the anti-slavery influence at the north which would again be brought to bear upon congress. Resolutions were passed in several of the slave states, declaring that congress had no power to prescribe to the people of Missouri the terms and conditions upon which they should be admitted into the union, and that congress was bound in good faith to admit them upon equal terms with the existing states.

CHAPTER XXIV.

THE FINANCES.—THE TARIFF OF 1824.—SPEECHES OF CLAY AND WEBSTER.

THE 18th congress commenced its 1st session December 1, 1823. Mr. Clay, who was again a member of the house of representatives, was chosen speaker by 139 votes against 42 given for Mr. Barbour, speaker of the last congress.

The message of the president, delivered the next day, presented the state of public affairs in greater detail than was usual on such occasions. Among the subjects noticed was the favorable condition of the public finances; the balance that would remain in the treasury on the 1st of January ensuing, being estimated at nearly nine millions of dollars. Of the public debt, the message says: "On the 1st of January, 1825, a large amount of the war debt, and a part of the revolutionary debt, become redeemable. Additional portions of the former will continue to become redeemable annually, until the year 1835. It is believed, however, that, if the United States remain at peace, the whole of that debt may be redeemed by the ordinary revenue of those years during that period, under the provision of the act of March 3, 1817, creating the sinking fund; and in that case, the only part of the debt that will remain after the year 1835, will be the seven millions of five per cent. stock subscribed to the bank of the United States, and the three per cent. revolutionary debt, amounting to thirteen millions two hundred and ninety-six thousand and ninety-nine dollars and six cents; both of which are redeemable at the pleasure of the government."

The president also renewed the recommendation to the last congress, of a review of the tariff for the purpose of affording additional protection to manufactures; and he called the attention of congress to several specified objects of internal improvement, which would require appropriations of the public money. And as congress had not recommended to the states an amendment to the constitution vesting in the general government a power to adopt and execute a system of internal improvement, he suggested that the executive be authorized to enter into an arrangement with the states through which the Cumberland road passes, "to establish tolls, each within its limits, for the purpose of defraying the expense of future repairs."

Probably the most important measure of congress at this session, was the revision and modification of the tariff. Since 1816, the subject of

manufactures seems to have received for a few years little attention from congress. The tariff act of that year, protecting few important manufactures except coarse cottons, afforded but a limited encouragement to the industry of the nation. Manufactures were languishing; several large establishments were closed; and in many others great numbers of workmen had been discharged. Agriculture was scarcely more prosperous. The foreign demand for American grain, which had been kept up by the wars of Europe for a period of about twenty-five years, had nearly ceased with the restoration of peace. This, together with the limited and constantly diminishing home market, had reduced the prices of our surplus bread stuffs below the cost of production and transportation to the sea board. Public meetings were held, and resolutions were passed; associations were formed; and petitions were presented to congress for relief. Action was also taken on the subject by the legislatures of some of the states, and their representatives were requested to endeavor to procure such modifications of the tariff as should encourage the employment of capital and industry in home manufactures.

With a view to this object, a bill was reported in the house of representatives at the session of 1819-1820, and passed that body, 90 to 69. The bill was defeated in the senate, on a motion to postpone it till the next session, by a vote of 22 to 21. For the reason which will hereafter appear, the votes of the several states in the house of representatives are here given, as follows:

Massachusetts, (including Maine:) Ayes, 10; noes, 6; absent, 4. New Hampshire: Noes, 5; absent, 1. Rhode Island: Ayes, 2. Connecticut: Ayes, 6; noes, 1. Vermont: Ayes, 1; noes, 2; absent, 3. New York: Ayes, 25; absent, 2. New Jersey: Ayes, 6. Pennsylvania: Ayes, 22; noes, 1. Delaware: Noes, 2. Maryland: Ayes, 1; noes, 5; absent, 3. Virginia: Ayes, 1; noes, 15; absent, 7. North Carolina: Ayes, 1; noes, 11; absent, 1. South Carolina: Ayes, 1; noes, 6; absent, 2. Georgia: Noes, 5; absent, 1. Kentucky: Ayes, 4; noes, 3; absent, 2. Tennessee: Noes, 6. Ohio: Ayes, 6. Indiana: Ayes, 1. Illinois: Ayes, 1. Louisiana: Noes, 1. Mississippi: Noes, 1. Alabama: Noes, 1.

The subject was again brought before congress, at several successive sessions, but without success, until the year 1824. In that year, a bill proposing to increase the duties on imports, after a discussion of more than two months, passed the house, April 16th, by a small majority: yeas, 107; nays, 102. In the senate, some amendments were made to the bill, to which the house disagreed. The difference between the two houses was subsequently settled by a committee of conference. The bill passed the senate, 25 to 22. Of those who voted in the affirmative

were Messrs. Benton, Dickerson, Jackson, Eaton, Johnson, of Kentucky, and Van Buren. Mr. King, of New York, voted in the negative.

The debate in the house was one of extraordinary interest, and evinced, on the part of those who participated in it, an unusual degree of talent, and extensive knowledge. An attendant upon the discussion, in giving an account of it, said: "Mr. Clay has been the Ajax Telamon of the bill, ably supported by Mr. Tod and many others on different points; but Hectors were not wanting on the other side to contest the ground, inch by inch." Among the opponents of the bill were Messrs. Webster, Hamilton, P. P. Barbour, and Forsyth.

In this contest for protection, the state of Pennsylvania may perhaps be justly said to have taken the lead. The voice of her citizens expressed in public meeting, their petitions to congress, the resolves of her state legislature, and the persevering efforts of her representatives in congress, contributed largely to the success of the measure. The chairmen of the committees on manufactures in both the preceding congress and the present, were representatives from that state: Mr. Baldwin in the former, and Mr. Tod in the latter. They were ably sustained by Messrs. Buchanan, Ingham, Hemphill, and other colleagues.

The following statement of the vote in the house is given that the reader may compare it with that of 1820:

Maine: Yeas, 1; nays, 6. Massachusetts: Yeas, 1; nays, 11. New Hampshire: Yeas, 1; nays, 5. Rhode Island: Yeas, 2. Connecticut: Yeas, 5; nays, 1. Vermont: Yeas, 5. New York: Yeas, 26; nays, 8. New Jersey: Yeas, 6. Pennsylvania: Yeas, 24; nays, 1; absent, 1. Delaware: Yeas, 1. Maryland: Yeas, 3; nays, 6. Virginia: Yeas, 1; nays, 21. North Carolina: Nays, 13. South Carolina: Nays, 9. Georgia: Nays, 7. Kentucky: Yeas, 11. Tennessee: Yeas, 2; nays, 7. Ohio: Yeas, 14. Indiana: Yeas, 2; absent, 1. Illinois: Yeas, 1. Louisiana: Nays, 3. Mississippi: Nays, 1. Alabama: Nays, 3. Missouri: Yeas, 1. The speaker, Mr. Clay, being in the chair, did not vote; and Mr. Ingham, of Pennsylvania, and Mr. Jennings, of Indiana, were absent. Their votes, had they been given, would have increased the yeas to 110. There was a vacancy in the representation from Massachusetts, which, if it had been filled, would probably have been given in the negative.

In Niles' Register of the 24th of April, the states are classed thus:

Navigating and fishing states: Maine, New Hampshire, and Massachusetts, 23 (including one for the vacancy in Mass.) against, and 3 for a tariff for the protection of domestic industry.

Manufacturing states: Rhode Island and Connecticut, 7 for, and 1 against.

Grain growing states: Vermont, New York, New Jersey, Pennsylvania, Delaware, Kentucky, Ohio, Indiana, Illinois, and Missouri, 24 for and 9 against.

Tobacco planting and grain growing state: Maryland, 6 against and 1 for.

Cotton and grain growing state: Tennessee, 7 against, and 2 for.

Sugar and cotton planting state: Louisiana, 3 against.

The editor adds: "The navigating and fishing states opposed the bill from an apprehension that it would injure commerce; the grain-growing states supported it from a belief that its passage would benefit agriculture; and the planting states united with the navigating against the bill, for the reason that it would be injurious to agriculture! On this ground the two last classes are at issue; but if we deduct the members from the grain growing states, who we may suppose were influenced by other considerations than those specially favorable to agriculture, it will appear, that what may be called the agricultural vote on the tariff, was almost two for, to one against it; that is, 95 grain growing against 57 planting.

"The unanimity of the navigating states against the wishes of the middle grain growing states, will surprise those who recollect, that the former were indebted to the latter for the passage of every law that protected and established their navigation; such as the discriminating duties on imports and tonnage; the building of certain frigates, &c., 'for the protection of commerce against the Barbary powers;' and, in 1796, for the establishment of a regular navy 'for the protection of commerce in general.'" And he notices what he calls the consistency of Virginia and the other states. "They opposed these measures, saying: 'Let commerce protect itself'—indifferent whether their tobacco and other products were carried in American or foreign vessels. They now say: 'Let manufactures protect themselves;' and in support of this proposition, use against them precisely the same arguments that were used thirty years ago against navigation."

The following sketch of the speech of Mr. Clay in favor of the tariff, and of that of Mr. Webster against it, presents the principal arguments on both sides of the question.

Mr. Clay commenced by alluding to the general distress, which, he said, was indicated by the diminished exports of native produce, by our reduced foreign navigation and diminished commerce; by the accumulation of grain wanting a market; by the alarming diminution of the circulating medium; by the numerous bankruptcies among all classes of society; by a universal complaint of the want of employment and a consequent reduction of the wages of labor; by the reluctant resort to the perilous use of paper money; and above all, by the depressed value of

all kinds of property, which had, on an average, sunk nearly fifty per cent. within a few years.

The cause of our unhappy condition, he said, was found in the fact, that, during near'y the whole existence of the government, we had shaped our industry, our navigation, and our commerce, in reference to an extraordinary war in Europe, and to foreign markets which no longer existed. The revival of commerce and navigation, and the extension of agricultural and other branches of industry in that country, had destroyed the demand for our navigation, our commerce, and the produce of our industry. The altered state of Europe he regarded as the cause of existing evils. The greatest want of civilized society, is a market for its surplus products of labor. Both a foreign and a home market were desirable; but the latter was most important. The object of the bill was to create the latter, and to lay the foundation of a genuine American policy. Foreign nations could not, if they would, take our surplus produce. Our population doubled in about twenty-five years; theirs in about one hundred years. If, therefore, as was presumed, the increase of production and consumption was in the ratio of the increase of population, *our* power of production would increase in a ratio four times as great as *their* capacity for consumption.

But if they could, they would not receive our agricultural produce, so far as it comes into collision with their own. They reject all our great staples which consist of objects of human subsistence, and receive only those raw materials essential to their manufactures, with the exception of tobacco and rice, which they can not produce.

Both the inability and policy of foreign nations, then, forbid our reliance upon the foreign market for the surplus produce of American labor. This statement was confirmed by experience. The amount of all our exports of domestic produce, during the year ending September 30, 1796, was \$40,764,097. Estimating the increase at four per cent. per annum, (the ratio of the increase of our population,) the amount of the exports of the same kinds of produce, during the last year, ought to have been \$85,420,861; but it was only \$47,155,408. During the five years from 1803 to 1807, inclusive, the average amount of native produce annually exported, was \$43,202,751. At the rate of increase suggested, the amount ought to have been, during the last year, \$77,766,751, instead of \$47,155,408.

Descending into particulars, there was still less cause for satisfaction. The export of tobacco in 1791, the year of the largest exportation of that article, was 12,428 hogsheads. The export which ought to have been last year 266,332 hogsheads, was only 99,009. In 1803, we exported 1,311,853 barrels of flour; last year, instead of 2,361,333, we exported

only 756,702; and of this amount 150,000 were sent to South America. But this demand was temporary, growing out of the existing war. Of Indian corn the export last year was 749,034 bushels, or about one-fifth of what it should have been, and a little more than one-third of what it was in 1803. The exports of beef and pork also, instead of having increased, were much less than they were twenty years ago. Rice had only slightly advanced. Cotton alone showed a considerable increase. But whilst the quantity was augmented, its value was diminished. The quantity last year exceeded that of the preceding year, nearly 30,000,000 pounds; yet the value was less by more than \$3,500,000. In 1790, the capacity of our country to produce this article was scarcely known. Were this article subtracted from the mass of our exports during the last year, the value of the residue would be only about \$27,000,000.

The distribution of the articles of export was also shown. Of the \$47,155,408 to which they amounted last year, the three articles, cotton, rice, and tobacco, produced chiefly at the south, alone amounted to \$28,549,177. The portion of our population engaged in their culture, probably did not exceed two millions. Thus, less than one-fifth of the whole population of the United States produced upwards of one-half, nearly two-thirds of the entire value of the exports of the last year.

Was the foreign market likely to improve? Europe would not abandon her own agriculture to foster ours. The present value of our exports might be maintained in future; but to continue in the existing pursuits of agriculture without creating a new market, must augment the quantity of our produce, and lessen its value in the foreign market. Cotton, as well as other articles, would be thus affected. Our agricultural is our greatest interest; and to advance it, we should contemplate it in all its varieties of farming, planting and grazing. Can nothing be done to invigorate it? Exclusive dependence on the foreign market must lead to still severer distress. Still cherishing the foreign market, let us create a home market to give farther scope to the consumption of the produce of American industry. Let us withdraw the support we give to foreign industry, and stimulate our own. It is a prominent object of wise legislators to multiply the vocations and to extend the business of society, by the protection of home interests against foreign legislation.

A home market is necessary to secure not only a just reward for agricultural labor, but a supply of our wants. If we can not sell, we can not buy. That portion of our population, (four-fifths, as we have seen,) which produces comparatively nothing that foreigners will receive, has nothing wherewith to purchase from foreigners. It is better, therefore, to buy the domestic fabric at a higher nominal price, than to buy the foreign for which we have nothing to give in exchange. The

superiority of the home market consists, (1.) in its greater steadiness and certainty; (2) in the creation of reciprocal interest; (3.) in its greater security; and (4.) in an ultimate increase of consumption, and consequently of comfort, from increased quantity and reduced prices.

To illustrate the benefits of this domestic policy, suppose that 500,000 persons are now employed abroad in fabricating, for our consumption, those articles with which, by the operation of this bill, it is intended to supply ourselves. These persons are, in effect, subsisted by us; but the means of their subsistence are drawn from foreign agriculture. If they were transported to this country, the demand in the article of flour alone required for their subsistence, would be about 900,000 barrels, which exceeds the entire quantity exported the last year. But if we should thus employ this number of our own citizens, instead of foreigners, the beneficial effects upon the farming interest would be nearly doubled. By directing so many hands to other pursuits, the productions of agricultural labor would be greatly diminished. This diminution of the quantity alone would increase their proportional value; but this value would be still farther enhanced by the home market created.

The great desideratum in political economy is, so to apply the aggregate industry of a nation as to produce the greatest amount of wealth. Labor is the source of wealth; but it is not natural labor only. The fundamental error of the gentleman from Virginia, (P. P. Barbour,) in deducing, from the sparseness of our population, our unfitness for the introduction of the arts, consists in not duly appreciating the power of machinery. Such are the improvements in machinery, that the proportion of the value given to many fabrics by natural labor is so inconsiderable as to be scarcely worth calculating. Hence, manual labor and the price of wages are of less account than they were in former times. For example: Asia, formerly, by the density of her population and the lowness of wages, laid Europe under tribute for many of her fabrics. Now Europe, Great Britain in particular, reacts upon Asia, and throws back upon her countless millions of people the products of artificial labor, infinitely cheaper than they can be manufactured by the natural exertions of that portion of the globe. It is to the immense power of her machinery that Britain is indebted for her enormous wealth. According to reliable estimates, her artificial or machine labor is equal to that of 200,000,000 able bodied laborers; which gives to her a power to create wealth ten times greater than that of the United States. Facts will show that these views are not imaginary.

The revenue of the United Kingdom reached, in 1822, the vast amount of £55,000,000 sterling, or nearly \$245,000,000; eleven times

that of the United States during the same year. The prosperous condition of her commerce equally denotes her immense riches. The average of three years' exports ending in 1789, was upwards of £13,000,000 sterling, and of her imports, £17,000,000. The average of the exports for three years ending in 1822, was £40,000,000, and of imports £36,000,000; showing a balance of trade in her favor of £4,000,000, or about \$20,000,000.* Thus, from the time of the establishment of our constitution, have the exports of that kingdom been tripled, and mainly by the power of machinery. The average of her tonnage during the most flourishing period of the war, was 2,400,000 tons. Its average during the three years, 1819, 1820, and 1821, was 2,600,000 tons.

A glance at some of the articles of her manufactures, said Mr. Clay, would aid us in comprehending the nature of the sources of her riches. The amount of cotton fabrics exported during the most prosperous year of the war, was about £18,000,000 sterling. In 1820, it was £16,600,000; in 1821, £20,500,000; in 1822, £21,639,000; or upwards of \$96,000,000. The total amount of her imports of cotton wool from all foreign parts, was £5,000,000 sterling. After supplying the consumption of fabrics within the country, she gives, by means of her industry, to this cotton wool a new value, which enables her to sell to foreign nations to the amount of £21,639,000; making a clear profit of about £16,500,000, or more than \$73,000,000! In 1821, the value of her exports of woollen manufactures was £4,300,000; in 1822, £5,500,000.

Of the wealth annually produced in Great Britain, the agricultural portion is said, by the gentleman from Virginia, to be greater than that created by any other branch of her industry. But that flows mainly from a policy similar to that proposed by this bill. One-third only of her population is engaged in agriculture; the other two-thirds furnishing a market for the produce of that third. Withdraw this market, and what becomes of her agriculture?

The protecting policy of Great Britain is adapted alike to a state of war and a state of peace. Self-poised, resting upon her own internal resources, possessing a home market carefully cherished and guarded, she is prepared for any emergency. We have seen her coming out of a war of incalculable exertion and long duration, with her power unbroken, her means undiminished. Almost every revolving year of peace has brought with it an increase of her manufactures, of her commerce, and, consequently, of her navigation. Constructing her prosperity upon the solid foundation of her own protecting policy, it is unaffected by the vicissitudes of other states.

What is our condition? Depending upon the state of foreign powers

—confiding in a foreign, to the neglect of a domestic policy—our interests are affected by all their movements. Their wars, their misfortunes, are the source of our prosperity. Our system is anomalous; unfitted either to general tranquillity, or to a state of war or peace on our own part. It can succeed only in the rare occurrence of a general war throughout Europe.

Mr. Clay proceeded to answer the numerous objections that had been made against the bill.

1. It was designed to tax one part of the community for the benefit of another. To this it was replied, that no man paid the duty assessed on the foreign article by compulsion. Consumption had four objects of choice: (1.) It might abstain from the use of the foreign article, and thus avoid the tax; or, (2.) employ the rival American fabric; or, (3.) engage in the business of manufacturing, which the bill is designed to foster; or, (4.) supply itself from the household manufactures.

It had been said that the south, owing to the character of a certain portion of its population, could not engage in manufacturing. He did not agree in that opinion to the extent asserted. But if true, ought the interests of the greater and freer part to be made to bend to the condition of the servile part of our population? And should we persist in the foreign policy, and make all other parts tributary to the planting parts? But although the south should not embark in manufacturing, its interest would be promoted by a new source of supply for its consumption, as well as an additional market for its raw material. Now, foreign countries—Great Britain principally—have the monopoly in supplying southern consumption. If this bill should pass, an American competitor would be raised up, and the south would be cheaper and better supplied.

2. The amount of our exports, it is said, will be diminished; because, if we do not buy of Europe, she will not buy of us. He had already said, that, except tobacco and rice, we send to Europe nothing but raw materials. The effect of the bill will be to diminish the imports of those articles only which it will enable us to manufacture for ourselves; leaving Europe free to supply us with any other produce of their industry. The export of cotton wool to Great Britain will probably be somewhat diminished. He had stated that Britain buys cotton wool to the amount of £5,000,000 sterling, and sells abroad of the article in a manufactured state, £21,500,000; of which we receive a little upwards of £1,500,000. The residue of £20,000,000 she will continue to sell to other foreign powers, the raw material for which she must obtain from us, because we can supply her cheaper and better than any other country. While, therefore, the diminution of the export of the raw cotton

would be only as one and a half to twenty, its value would be greatly multiplied by a new application of our industry, and thus increase the amount of our exports. Our cotton manufactures, to a considerable amount, already find a sale in foreign markets.

3. It was objected that the tariff would diminish our navigation. This, though a great interest, and deserving encouragement, was not a paramount interest, and ought to accommodate itself to the state of agriculture and manufactures. There would be no sensible diminution of our present exports to Europe; and as the new direction given to a portion of our industry would produce new objects of exportation, our foreign tonnage would probably be even increased. But although it should experience a slight reduction, the increase of our coasting tonnage, resulting from the greater activity of domestic exchanges, would more than compensate the injury.

4. It was contended that this measure would diminish our foreign commerce. The new productions, or the value given to old objects of industry, said Mr. C., would give to commerce a fresh spring, a new aliment. The foreign commerce had already been extended as far as it could be; the balance of trade was, and had for some time been against us; and some measure was necessary to render our foreign exchanges more favorable. Mr. Clay was surprised to hear the gentleman from Massachusetts, (Mr. Webster,) reject, as an exploded fallacy, the idea of a balance of trade. He had not time now to discuss that topic, but would observe, that all nations acted upon the supposition of the reality of its existence, and sought to avoid a trade the balance of which was against them, and to foster that which presented a favorable balance. An unfavorable balance with one nation might be made up by a favorable balance with other nations; but the fact of the existence of that unfavorable balance was strong presumptive evidence against the trade. Commerce, it had been said, would regulate itself. But was it not the duty of wise governments to watch its course, and by prudent legislation to stimulate the industry of their own people, and to check the policy of foreign powers?

5. Another objection to the tariff was, that it would diminish the public revenue, and compel us to resort to internal taxation to pay the public debt. This objection presupposed a reduction of the importation of the articles subjected to increased duties. It was believed that the augmentation of the duties would compensate for the diminution of the quantities imported. Some articles would continue to be imported as largely as ever.

6. Again, it was objected, that capital and labor would be forced into new and reluctant employments, for which we were not prepared, in con-

sequence of the high price of labor. The existing occupations were already overflowing with competitors; and the very object of the bill was to open a new field of business, into which all that should choose might enter. The alleged fact of the high price of wages was not admitted. No class of society were suffering more than the laboring class. This was a necessary effect of the depression of agriculture, the principal business of the community. Able-bodied men could be employed for five to eight dollars a month. He agreed with the gentleman from Virginia, that high wages are a proof of national prosperity; they differed only in the means of attaining the end. Natural labor is so inconsiderable an element in the business of manufacture, as to render the fact of high wages of small account. It had been foretold that our restrictive commercial policy would disappoint our expectations. But it had been successful; as was evident from the share which our navigation enjoyed in the trade with France and the British West India islands.

7. But it had been said, that, where circumstances are favorable to manufactures, they will arise without protection. If all nations would modify their policy on this axiom, perhaps it would be better for the common good of the whole. But even then, in consequence of natural advantages and a greater advance in civilization and the arts, some nations would enjoy a higher degree of prosperity than others. If asked why unprotected industry should not succeed in a struggle with protected industry, it was sufficient to answer, that the fact had ever been so—that UNIFORM EXPERIENCE evinced that it could not succeed in such an unequal contest. If, however, he were to attempt to particularize causes, he would mention, (1.) the obduracy of fixed habits—the reluctance of men to change their course of business; (2.) the uncertainty and fluctuation of the home market, when free to an influx of fabrics from all nations; and (3.) the superior advance of skill and amount of capital which some nations have obtained by the protection of their own industry.

8. But, it was said, admitting the policy of protection to be expedient, the measure of protection had already been sufficiently extended. Most of the existing duties had been laid with a view to revenue, rather than to the encouragement of domestic industry. Although the incidental effect of them was to promote our manufactures, they fell short of competent protection, and needed a moderate addition.

9. Again, it was asserted, that the restricting policy was condemned by the wisdom of Europe, and by her most enlightened statesmen. Mr. Clay denied this assertion. The few instances of partial relaxation to which reference had been made, and to which Great Britain had been impelled by interest or necessity, did not prove her abandonment of the

system. But supposing it to be true, would that prove it unwise for us to adopt the protecting system? In England its purpose had been accomplished. It was upon this ground that some of her writers recommended its abandonment. Her manufactures having become established, freedom of trade with other nations whose arts were yet in their infancy, would, it was supposed, only give wider scope to British industry and enterprise. It would extend the consumption of British produce to other countries. She had not, however, adopted the theories of philosophical writers, which, wherever adopted, brought with them impoverishment and ruin. Spain afforded a striking proof of the sad effects upon a nation, of its neglecting the care of its own internal industry. Her prosperity was greatest when the arts, brought there by the Moors, flourished most in that kingdom. Then she received from England her wool, and returned it in a manufactured state; and then England was least prosperous.

10. It was objected, also, that the manufacturing system tended to the accumulation of large capitals in a few hands, and the consequent corruption of public morals. This objection would equally apply to every lucrative business. Immense fortunes had been acquired by commerce at the north, and by planting at the south. The laws of distribution in this country, and the absence of the English rule of primogeniture, would check the accumulation of large fortunes; and the extent and fertility of our lands were a sufficient safeguard against excess in manufactures, and against the oppression, by capitalists, of the laboring classes of the community. The best security against the demoralization of society was the constant and profitable employment of its members.

11. And still another objection was, that the bill was unconstitutional. Whether an attempt was made to provide for internal improvements; or to protect American industry against foreign rivalry, the constitution stood in our way. This constitution must be a singular instrument! It seemed to have been made for any other people than our own. Revenue was doubtless the principal object of the power to lay duties and imposts. In executing this power, however, the duties might be so laid as to secure domestic interests. But the power "to regulate commerce with foreign nations" is unlimited. It implies the power to admit or exclude any article of trade, or to prescribe the terms of its admission. Under this power laws had been passed entirely prohibiting all intercourse with foreign nations. And these laws—embargoes—had received the approbation of men who now denied to congress the right to exercise this power for the purpose of protection.

Mr. Webster considered the picture of distress drawn by Mr. Clay, as unwarranted by the real condition of the country. He admitted that

there was a considerable depression of prices, and in some degree a stagnation of business; but in the eastern states, where he was most acquainted, the means of living were accessible and abundant, and labor was well rewarded. Profits, indeed, were low; in some pursuits of life, very low: but he had not seen any proofs of extraordinary distress.

In judging of this question, even from the proofs to which reference had been made, they would probably come to a conclusion different from that which had been drawn. Our exports, for example, although less than in some years, were not, last year, much below an average formed from the exports of a series of years. The speaker had taken the extraordinary exports of the year 1803, and made them the basis of calculating the amount which they ought to have reached, in order to exhibit an increase corresponding to the increase of our population. Of the article of flour, there was an export that year of 1,300,000 barrels; but the next year it fell to 800,000, and the next to 700,000 barrels. But it was not to be expected that the increase of agricultural exports would keep pace with the increase of population. It was against all experience.

As means of judging of the general condition of the people, Mr. Webster mentioned the quantity of means of subsistence consumed, or the quantity of the comforts of life enjoyed; the progress of internal improvements; and the increasing amount annually paid for purposes of education. In some parts of the country, he admitted, there was a great degree of pecuniary embarrassment, arising from the difficulty of paying debts contracted when prices were high. The depression of prices he ascribed to the restoration of a state of peace. The wars in Europe and our own country, had caused a great demand for the commodities of trade, the prices of which had been raised from the lowest to the highest extreme. The large issues of bank paper had contributed to this result. A depreciated currency existed in a great part of the country; depreciated to such an extent as to raise the exchange between the center and the north as high as 20 per cent. The bank of the United States had been instituted to correct this evil; but for certain causes, it did not, for some years, bring back the currency to a sound state. This depreciation was so much added to the nominal prices of commodities; and these high prices seemed to those who looked only at the appearance, to indicate prosperity. At length prices fell, and from the effects of this fall the country had not yet fully recovered.

In seeking a remedy for existing evils, Mr. Webster said, we were bound to see that there was a fitness in the measures proposed; and before we adopted a system that professed to make great alterations, we should look carefully to each leading interest of the community, and see

how it might be affected by our proposed legislation. Our commerce was not enjoying that rich harvest which fell to its fortune during the European wars. Still, it seemed capable of recovering itself in some measure from its depression. The shipping interest had suffered still more severely; and it was astonishing that the navigation of the United States should sustain itself. Without government protection, it challenged competition with the whole world; and, in spite of all obstacles, it had yet been able to maintain 800,000 tons in the employment of foreign trade. This was done, not by protection and bounties, but by unwearied exertion, by extreme economy, by that resolute spirit which relies on itself for protection. The navigation of the country was essential to its honor and its defense. Yet, in this hour of its depression, it was proposed to lay upon it new and heavy burthens.

- In discussing the proposed duty on tallow for the benefit of the oil merchants and whalemens, strong statements had been made of the importance of that portion of our shipping employed in the whale fishery. But the same bill proposed a severe tax upon that interest for the benefit of the iron manufacturer and the hemp grower. So that the tallow chandlers and soap boilers were to be sacrificed to the oil merchants, that these again may contribute to the manufacturers of iron and the growers of hemp.

In the next place, what was the condition of our home manufactures? Did they need farther protection? He was in favor of protecting domestic industry; all domestic industry was not confined to manufactures. Agriculture, commerce, and navigation, were all branches of the same domestic industry; and the question was, whether the proposed new encouragement to particular manufactures was necessary, and whether it could be given without injustice to other branches of industry. One great object proposed was the increase of the home market for the consumption of agricultural products; but what provisions of the bill were expected to produce this, was not stated. Some increase of home market might follow from the adoption of the bill; but *all* its provisions had not equal tendency to produce this effect. Its provisions should therefore be singly and severally examined. Some of them were probably acceptable to the general sense of the house. These might be passed into a law, and others left to be decided upon their own merits.

Mr. Webster then adverted to some other general topics. Much had been heard of the policy of England; and her example had been urged, as proving, not only the expediency of encouragement and protection, but also of exclusion and prohibition. He had the other day remarked, that more liberal notions were becoming prevalent on this subject; that the policy of restraints and prohibitions was getting out of repute, &

the true nature of commerce became better understood; and that the most distinguished public men were most decided in their reprobation of the restrictive principle. But it had again been declared, that the English government still adhered to its old doctrines; and that, although journalists, theorists, and scientific writers advance other doctrines, the practical men, the legislatures, the government, are too wise to follow them. It had even been hinted, that the promulgation of liberal opinions was intended only to delude other nations into the folly of liberal ideas, while England retained to herself the benefits of the old system.

He had never said that prohibitory laws did not exist in England; but the question was, did she owe her prosperity to these laws? He ventured to say, that such was not the opinion of public men now in England; and the continuance of the laws, even without alteration, would not be evidence that their opinion was not as he had represented it. The laws having existed long, and great interests having been built up on the faith of them, they could not now be repealed without great inconvenience. Because a thing had been wrongly done, it did not follow that it could now be undone; and for this reason prohibition and monopoly were suffered to remain in the English system. Mr. W. here read extracts from speeches of several members of parliament in favor of the general principle of unrestricted trade. One of the speakers observed, that he believed England had risen to her present greatness, "not in consequence of her present system, but in spite of it." Another remarked, that "the name of strict prohibition might, in commerce, be got rid of altogether; but he did not see the same objection to protecting duties, which, while they admitted the introduction of commodities from abroad, similar to those which we ourselves manufactured, placed them so much on a level as to allow a competition between them."

Protection, when carried to the point recommended, seemed to him (Mr. W.) destructive of all intercourse between nations. We were urged to adopt the system upon general principles. He did not admit the general principle; freedom of trade was the general principle, and restriction the exception. And it was for every state, taking into view its own condition, to judge of the propriety, in any case, of making an exception, constantly preferring, as all wise governments would, not to depart, without urgent reasons, from the general rule.

He next spoke of the warehouse system, usually called in this country, the system of drawback. We seemed averse to the extension of this principle. England, on the contrary, appeared to have carried it to the extreme of liberality. The present opinions and practice of her government, however, had been attained by slow degrees. The transit system was commenced about the year 1803; but the first law was par-

tial and limited. It admitted the importation of raw materials for exportation; but it excluded almost every sort of manufactured goods. This was done for the same reason that we proposed to prevent the transit of Canadian wheat through the United States—the fear of aiding the competition of the foreign article with our own, in foreign markets. But reflection or experience had induced the British government to consider all such means of influencing foreign markets as nugatory; since nations will supply themselves from the best sources: and the true policy of all producers, whether of raw materials or of manufactured articles, was, not vainly to endeavor to keep other venders out of market, but to conquer them in it, by the quality and the cheapness of their goods. The present policy of England, he said, was to invite the importation of commodities, to be deposited in English warehouses, thence to be exported in assorted cargoes, and thus enabling her to carry on a general export trade to all quarters of the globe. Articles of all kinds, except tea, may be brought from any part of the world, in foreign as well as British ships, warehoused, and again exported at pleasure, without any duty or government charge whatever.

Mr. W. also noticed the recent proposition in parliament to abolish the tax on imported wool. It was observable, he said, that those who supported this proposition, gave the same reasons as had been offered here, within the last week, against the duty which we proposed on the same article. They said their manufacturers required a cheap and coarse wool for the supply of the Mediterranean and Levant trade; and without a more free admission of the wool of the continent, that trade would fall into the hands of the Germans and Italians, who would carry it on through Leghorn and Trieste. While there was this duty on foreign wool to protect the wool growers of England, there was, on the other hand, a prohibition on the exportation of the native article, in aid of the manufacturers. The opinion seemed to be gaining strength, that the true policy was to abolish both. Whether, therefore, the present policy of England were right or wrong, wise or unwise, it could not, he thought, be quoted as authority for carrying farther the restrictive system, in regard either to manufactures or trade.

On the subject of the “balance of trade,” Mr. W. dissented from the popular notion, that because the imports of a nation exceeded its exports; in other words, if it buys more than it sells, the balance of trade is unfavorable. He maintained, that the excess of imports over exports usually showed the gains, not the losses of trade, because the value of the goods imported was augmented by the labor of transportation. The difference between the value of the imports and exports consisted of the profits of commerce, and the earnings of navigation. It was clear, that,

If the value of the commodities imported in a given case, did not exceed the value of the outward cargo with which they were purchased, the voyage was unprofitable. According to the doctrine of the balance of trade, although one individual or all individuals gain, the nation loses; while all its citizens grow rich, the country grows poor."

These notions had their origin in mistaken ideas of the true nature of commerce. Commerce was not a gambling between nations for a stake, to be won by some and lost by others. It might be carried on to the mutual advantage of all parties. Individuals made interchanges to the benefit of both. So nations producing different commodities, might exchange with each other, and both profit by the exchange. It did not follow, therefore, that our receiving from any country more of her products than she received of ours, was to us a losing trade.

Connected with this topic was another which had been brought into the debate; an evil much complained of—the exportation of specie. Gentlemen had imputed the loss of market at home to a want of money, and this want of money to the exportation of the precious metals. The India and China trade had been denounced, because the products of those countries were purchased with gold and silver. This opinion was without just foundation. These articles were of use, and articles of merchandise, with this additional circumstance, that they were made, by the general consent of nations, the standard by which the value of all other merchandise was to be estimated. There might be too much or too little of them in a country at a particular time, as there might be of any other articles. When the market was overstocked with them, their exportation became as proper and as useful as that of other commodities, under similar circumstances. There was no more cause for repining when the dollars received from South America were sent to other countries than when coffee and sugar took that direction. We often deceived ourselves by attributing to a scarcity of money that which is the result of other causes.

A member from Pennsylvania had represented the country full of every thing but money. The agricultural products, so abundant in that state, would not sell for money. But they would sell for money as quick as for any other article that happened to be in demand. They would sell for money as easily as for coffee or for tea, at the prices which properly belong to those articles. The mistake was in imputing to the want of money what arises from want of demand. Men do not buy wheat because they have money, but because they want wheat. To decide whether money is plenty or not, that is, whether there is a large portion of capital unemployed or not, when the currency is metallic, we must look not only to the prices of commodities, but also to the rate of

interest. A low rate of interest, a facility of obtaining money on loans, a disposition to invest in permanent stocks, all of which are proofs that money is abundant, do not infallibly denote a state of the highest prosperity. They often show a want of employment for capital; and the accumulation of specie shows the same thing. We have no occasion for the precious metals as money, except for the purpose of circulation, or rather of sustaining a safe paper circulation. And whenever there is a prospect of a profitable investment abroad, all the gold and silver, except what these purposes require, will be exported. So if a demand existed abroad for sugar and coffee, whatever amount of these articles might exist in the country beyond the wants of its own consumption, would be sent abroad to meet that demand.

The high rate of exchange, too, had been referred to as a proof that we were on the downward road to ruin. The speaker, (Mr. Clay,) himself had adverted to that topic; and he, (Mr. W.,) feared such high authority might give credit to opinions clearly unfounded, and leading to wrong conclusions. Exchange on England, before the late rise, had been about seven and a half per cent. advance. What did this prove? Nothing, but that funds were wanted in England for commercial operations, to be carried on there or elsewhere. It did not necessarily show that we were indebted to England. Even if it did prove that a balance was due England, at the moment, it would not explain to us whether our commerce with that country had been profitable or unprofitable. But it was not true that the *real* price of exchange was seven and a half per cent. advance; nor, indeed, that there was any advance at all. It was not true that merchants would give such an advance, or any advance, for *money* in England, more than they would give for the same amount, in the same currency, here. If there were a real difference of seven and a half per cent., money would be immediately shipped to England: because the expense of transportation would be far less than that difference.

The true state of exchange between the two countries, was to be ascertained by looking at their currencies, and by comparing the quantities of gold and silver which they respectively represented. The English standard of value was gold. Ours was gold and silver at a fixed relation to each other. But our estimate of silver was higher, in proportion to gold, than England and most other nations give it: consequently silver, a legal currency with us, remained here, while gold had gone abroad; verifying the universal truth, that, if two currencies of different values are allowed to exist, the cheapest will fill up the whole circulation. For the gold that would suffice to pay here a debt of a given amount, we could buy in England more silver than would be necessary to pay the same debt here; and from this difference in the

value of silver arose wholly, or in a great measure, the apparent difference in exchange. The Spanish dollar was selling in England for four shillings and nine pence sterling per ounce, equal to one dollar and six cents. By our standard, the same ounce was worth one dollar and sixteen cents; being a difference of about nine per cent. Hence if the nominal advance on English bills did not exceed nine per cent., the real exchange would not be against this country; in other words, it did not show that there was any pressing or particular occasion for the remittance of funds to England.

Mr. Webster proceeded to state some objections of a more general nature to the course of the speaker's observations. He had argued the question as if all domestic industry were confined to the production of manufactured articles. Some other gentleman had spoken of the price paid for every foreign manufactured article, as so much given for the encouragement of foreign labor, to the prejudice of our own. But was it not the product of our own labor as truly as if we had manufactured it ourselves? One man makes a yard of cloth at home; another raises agricultural products, and buys a yard of imported cloth. Both are the earnings of domestic industry; and the only questions arising in the case are two: (1.) Which is the best mode, under all circumstances, of obtaining the article? (2.) How far should this question be decided by government, and how far left to individual discretion?

It had been asked what nations had ever attained eminent prosperity without encouraging manufactures. He asked, in reply, what nation had ever reached the like prosperity without promoting foreign trade. These interests were closely connected, and it should be our aim to cause them to flourish together. Most of our revenue being collected by duties on imports, we could, without exceeding the bounds of moderation, give great advantages to those manufactures which we might think it most useful to promote at home. But he objected to the immoderate use of the power; by which labor would be diverted from occupations in which it was profitably employed, to others in which it would be poorly rewarded. He apprehended many would be deprived of their employments; and they would find the prices of the commodities they needed, enhanced, in any of the alternatives the speaker had presented. He had told us, they might, if they chose, continue to buy the foreign article. But the price has been raised. They might use the domestic article. The price of that also has been increased. Let them then supply themselves with their own fabric. But how could the agriculturist make his own iron, or the ship owner grow his own hemp?

He objected also to the speaker's reasoning, that he had argued the question as if manufactures were now, for the first time, to receive en-

couragement. He had adopted the modes of expression used elsewhere, and asked if we would give our manufacturers no protection. The real question was, not whether duties should be *laid*, but whether they should be *augmented*. It was forgotten that iron and hemp, for example, already paid a burdensome duty; yet, from the general tenor of the speaker's observations, one would infer that we had hitherto taxed our own manufactures rather than fostered them by taxes on those of other countries.

The poverty of Spain had been attributed to the want of protection to her own industry. That it was owing to bad government and bad laws was true. But these very laws were bad because they were restrictive. If prohibition were protection, Spain would seem to have had enough of it. Nothing could exceed the barbarous rigidity of her colonial system, or the folly of her early commercial regulations. Unenlightened and bigoted legislation, the multitude of her holidays, miserable roads, and restrictive laws, he believed had been the principal causes of the bad state of her productive industry. And any partial improvement in her condition had been the result of relaxation.

Mr. Webster next went into an examination of the bill as to its probable effects upon some of the great interests of the country; and first, as to the foreign trade. It was lamentably true, as the speaker had stated, that there had been a falling off in the tonnage employed in that trade. What did the bill propose for relief? Nothing but new burdens. It proposed to diminish its employment, and at the same time to augment its expense by subjecting it to heavier taxation. The shipping interest, as appeared from a statement he had submitted to the committee, paid annually more than half a million of dollars in duties on articles used in the construction of ships; to which it was proposed to add nearly fifty per cent.

Some of the clauses of the bill Mr. W. approved; to others he strongly objected; and most of all, to that which proposed to raise the duty on iron, an article of great importance to the shipping interest, which he represented. The annual consumption of the article had been estimated at 50,000 tons; the duty on which, at \$15 per ton, amounted to \$750,000; increasing by so much the price of an absolute necessity of life. It was now proposed to raise the duty to \$22.50 per ton, which would be equal to \$1,125,000 on the whole annual consumption. The only mitigation of this burthen imposed for the benefit of the producers of the article, was in the prospect that the price of iron would be reduced by this domestic competition after the importation should be prohibited. But it was easy to show that it would not fall; and the result would be, that the \$1,125,000 would be constantly augmented by the in

creased consumption of the article, to support a business that could not support itself. It was of no consequence to the argument that this sum would be expended at home : so it would be if the people were taxed to support any other useless and expensive establishment.

The price of iron at Stockholm was \$53 ; to which add the duty of \$15, and as much more for freight, insurance, &c., and the cost would be \$83 in the American market. But the price at the mine in which it was produced, was only about \$40 per ton ; so that the present duty, with the expense of transportation, already gave the American manufacturer an advantage of 100 per cent. Why, then, could not iron be manufactured at home ? The answer was to be found in the different prices of labor. These were higher here than in any other civilized state ; and this fact was the greatest of all proofs of general happiness. We had been asked whether we would allow to the serfs of Russia and Sweden the benefit of making iron for us. He would inform the gentleman that these serfs did not earn more than seven cents a day. And he asked whether we had any labor in this country that could not be better employed than in a business yielding to the laborer only seven cents a day. There was no reason for saying that we would work iron because we had mountains that contained ore. He said the true inquiry was, whether we could produce the article at the same, or nearly the same cost as that at which we could import it. The reason why our citizens should not be compelled to manufacture our own iron was, that they were far better employed. It was an unproductive business ; and they were not poor enough to be obliged to follow it.

The effect of the bill in its operation on hemp, was also considered. The aggregate amount of duties on the hemp and iron used in the construction of a vessel of 359 tons burthen, was stated to be \$1056 ; and, with the contemplated increase, it would be \$1400. While we were proposing to add new burthens to the shipping interest, our great commercial and maritime rival was pursuing a very different line of policy. It was the sentiment of the government of England, that the first of all manufactures was the manufacture of ships ; and very important regulations favorable to this interest had been adopted within the last year.

Mr. W. concluded by saying, that there were some parts of the bill which he highly approved ; that in others he acquiesced ; but that those to which he had stated his objections appeared to him so destitute of all justice, so burthensome and so dangerous to that interest which had steadily enriched, gallantly defended, and proudly distinguished us, that nothing could prevail upon him to give the bill his support.

CHAPTER XXV.

ELECTION OF MR. ADAMS.—THE ALLEGED COALITION BETWEEN ADAMS AND CLAY.—PROPOSITIONS FOR RETRENCHMENT AND REFORM.

THE presidential election of 1824 was one of deep and general interest throughout the union. The names of at least six candidates had been presented: Messrs. Adams, Crawford, Jackson, Clay, Calhoun, and Clinton. The names of the two last, however, were subsequently withdrawn.

The practice which had prevailed since 1804, of making nominations by the republican members of congress, had become unpopular. The original and legitimate object of a caucus was to enable the friends of certain principles or measures to concentrate their suffrages. For such purpose a caucus had become unnecessary. All the candidates were regarded as republicans, and as holding to the same general principles. Old party lines, as respected measures of public policy, had become obliterated. The people were not so much divided upon measures, as in the choice of men. And when political contests are merely for men, caucuses are likely to become instruments of corruption and intrigue. It was also objected, that, as the public sentiment in some of the states had designated certain individuals as candidates, the members of a congressional caucus might defeat the wishes of their constituents. And although it was desirable to avoid a resort to the house of representatives for the election of a president, the candidates were so numerous, and the attachment of the people to their respective favorites was so firm, as to preclude the belief that a caucus nomination would at all increase the chances of an election by the people. The object of a caucus was the nomination of Mr. Crawford; which had few advocates beyond the circle of his particular friends.

Not only was the public feeling on this subject expressed in meetings of the people; formal action was taken upon it by the legislatures of several of the states, whose decisions were communicated to their representatives in congress. The newspaper press, too, took an active part in the discussion. A leading paper opposed to a caucus, was Niles' Register. The National Intelligencer, the Albany Argus, and the Richmond Enquirer, were among its prominent advocates.

A caucus, or, as it was termed, "a meeting of the republican members of congress," was held on the 14th of February, 1824. Of the 258 members, only 68 attended. The number in attendance being so

small, a motion was made to adjourn to the 20th of March; but, a majority being opposed to the adjournment, the meeting proceeded to ballot for a candidate for president. Of the 68 votes given, Wm. H. Crawford received 64; John Quincy Adams, 2; Andrew Jackson, 1; and Nathaniel Macon, 1. For vice-president, Albert Gallatin received 57 votes.

From a brief history of congressional caucuses in Niles' Register, (vol. xxv, pp. 244, 258,) the following facts appear:

In February, 1800, "certain federalists"—members of congress, it is presumed—held a meeting in the senate-chamber to consult on matters relating to the ensuing presidential election. This caucus was denounced in the Philadelphia Aurora, a republican paper, as a "jacobinical conclave;" for which, and for other statements, its editor, William Duane, was arrested, and brought to the bar of the senate to answer for his "false, defamatory, scandalous, and malicious assertions," &c. Soon after, there was a meeting of a few members, who pledged themselves to the support of Messrs. Jefferson and Burr. This meeting is said to have been caused by a complaint on the part of northern republicans, that Mr. Burr had not been duly supported by the party at the south, in 1797.

The first "regular republican caucus" appears to have been held on the 25th of February, 1804. Its chief object was to fix upon a candidate for vice-president. Mr. Jefferson, however, was named for reëlection, and George Clinton for vice-president.

On the 19th of January, 1808, a meeting of the republican members of congress to nominate candidates for president and vice-president, was called by Stephen R. Bradley, a senator from Vermont. The circular in which the call was made commenced thus: "In pursuance of the *powers vested in me*, as president of the late convention of the republican members of both houses of congress, I deem it expedient," &c. The meeting was to be held on the 23d of January, 1808. The issuing of this call in this mandatory style, was indignantly denounced by several members as a usurpation of power; and a large portion of the members refused to attend; unwilling, as was remarked, "to countenance, by their presence, the *midnight intrigues* of any set of men who may arrogate to themselves the right, (which belongs only to the people,) of selecting proper persons to fill the important offices of president and vice-president."

The meeting was attended, however, by ninety-four members of both houses—only one from the state of New York. Mr. Madison was nominated with apparent unanimity, though Mr. Monroe had been supported, *out of doors*, by a strong party of men, among whom were some who were unfriendly to the policy of Mr. Jefferson. These differences

in the republican party grew to such extent, as almost to produce the political ejection of Mr. Monroe; a fate actually experienced by De Witt Clinton four years afterward, for permitting his name to be used against that of Mr. Madison. Through the efforts of Mr. Jefferson and others, who deprecated a rupture in the party in the state of Virginia, a reconciliation was at length effected.

The next congressional caucus was held on the 18th of May, 1812, at which 82 members attended; the whole number of republican members of both houses being 133. All the votes given at this caucus were for Madison. The caucus of 1816 was held on the 16th of March, and was attended by 118 out of the 141 republican members. Mr. Clay, of Kentucky, and Mr. Taylor, of New York, offered resolutions declaring it inexpedient to proceed to a nomination; but the proposition was negatived. Mr. Monroe received 65 votes, and Mr. Crawford, 54. In 1820, no caucus was held—there being no organized opposition to the republican party.

As had been apprehended, the nomination made by the caucus in 1824, failed of securing to Mr. Crawford that advantage which former nominees had derived from regular republican nominations. So odious had this system become, that the nomination was believed to have actually diminished rather than increased his strength as a candidate.

The whole number of votes of the electoral colleges, was 261; of which there were given for Jackson 99, Adams 84, Crawford 41, Clay 37. John C. Calhoun received for vice-president 182 votes, against 78 for all others. The electors having failed to elect a president, that duty devolved upon the house of representatives; the election to be made from the three candidates having the highest numbers of votes, and the vote to be taken by states. The election by the house took place on the 9th of February, 1825, immediately after the canvass of the electoral vote. Mr. Adams received the votes of 13 states, General Jackson 7 states, and Mr. Crawford 4 states. Mr. Adams having a majority of the states, he was declared elected for four years from the 4th of March, 1825.

A committee appointed by the house for that purpose, informed Mr. Adams of his election, and reported the fact to the house the next day, with the following answer:

"GENTLEMEN: In receiving this testimonial from the representatives of the people and states of this union, I am deeply sensible of the circumstances under which it has been given. All my predecessors in the high station to which the favor of the house now calls me, have been honored with majorities of the electoral voices in their primary colleges. It has been my fortune to be placed, by the divisions of sentiment prevailing among our countrymen on this occasion, in competition, friendly and

honorable, with three of my fellow-citizens, all justly enjoying, in eminent degrees, the public favor; and of whose worth, talents, and services no one entertains a higher and more respectful sense than myself. The names of two of them were, in the fulfillment of the provisions of the constitution, presented to the selection of the house, in concurrence with my own; names closely associated with the glory of the nation, and one of them further recommended by a larger minority of the primary electoral suffrages than mine.

"In this state of things, could my refusal to accept the trust thus delegated to me, give an immediate opportunity to express with a nearer approach to unanimity, the object of their preference, I should not hesitate to decline the acceptance of this eminent charge, and to submit the decision of this momentous question again to their determination. But the constitution itself, has not so disposed of the contingency which would arise in the event of my refusal; I shall therefore repair to the post assigned me by the call of my country, signified through her constitutional organs; oppressed with the magnitude of the task before me, but cheered with the hope of that generous support of my fellow-citizens, which, in the vicissitudes of a life devoted to their service, has never failed to sustain me—confident in the trust that the wisdom of the legislative councils will guide and direct me in the path of my official duty, and relying, above all, upon the superintending providence of that Being 'in whose hand our breath is, and whose are all our ways.'

"Gentlemen: I pray you to make acceptable to the house, the assurance of my profound gratitude for their confidence, and to accept yourselves my thanks for the friendly terms in which you have communicated to me their decision."

John Quincy Adams was inaugurated as president of the United States, on the 4th of March, 1825. The senate being in session, the president immediately nominated his cabinet officers: Henry Clay, of Kentucky, for secretary of state; Richard Rush, for secretary of the treasury; James Barbour, of Virginia, for secretary of war. The nominations of the two last named gentlemen were unanimously confirmed that of Mr. Clay, for reasons which will soon appear, was warmly opposed. The vote was 27 in favor of his appointment, and 14 against it. Samuel L. Southard, of New Jersey, was continued secretary of the navy; William Wirt, of Virginia, then attorney-general, was also continued in office. The postmaster-general was not then a cabinet officer. The incumbent, John M'Lean, was retained in that office.

With a cabinet composed of men so able and distinguished, it might be supposed that the new administration had commenced under the most favorable auspices, and could not fail to attain a high degree of popular-

ity. It had, however, scarcely entered upon its career, before there were unerring indications of a determined opposition. This opposition, so early formed, could not have been based upon the acts of the administration. It had its origin chiefly in the disaffection of the friends of the unsuccessful candidates, increased, if not wholly produced, by the suspicion of Mr. Adams having obtained his election by a bargain with Mr. Clay and his friends, who, it was alleged, had voted for him with the understanding that, in case of his election, Mr. Clay was to receive the appointment of secretary of state.

The friends of General Jackson, having expected the votes of the western members for their candidate, expressed their indignation at the course of these members, and declared Messrs. Adams and Clay to have been parties to a "corrupt coalition" which had thwarted the will of the people. The election was soon followed by an excitement, which, for intensity and bitterness, has rarely been exceeded in this country. This important affair, involving as it does, the character of some of our most distinguished public men, deserves more than a passing notice.

A few weeks prior to the election by the house of representatives, there appeared in the *Columbian Observer*, published in the city of Philadelphia, a letter purporting to have been written by a member of the house of representatives belonging to the Pennsylvania delegation, and implicating the conduct of Mr. Clay in regard to the pending presidential election. The letter says: "For some time past, the friends of Clay have hinted that they, like the Swiss, would fight for those who would pay best. Overtures were said to have been made by the friends of Adams to the friends of Clay, offering him the appointment of secretary of state for his aid to elect Adams. And the friends of Clay gave this information to the friends of Jackson, and hinted that, if the friends of Jackson would offer the same price, they would close with them. But none of the friends of Jackson would descend to such mean barter and sale. * * * It is now ascertained to a certainty, that Henry Clay has transferred his interest to Mr. John Q. Adams. As a consideration for this abandonment of duty to his constituents, it is said and believed, should this unholy coalition prevail, Clay is to be appointed secretary of state."

This letter was followed by "A Card" from Mr. Clay, repelling the accusation, pronouncing the member, whoever he might be, "a base and infamous calumniator," and holding him "responsible, if he dared unveil himself, to all the laws which govern and regulate the conduct of men of honor." Whereupon, in "Another Card," George Kremer acknowledged the authorship of the letter, and declared himself ready to prove the statements therein contained.

Mr. Clay, on the same day, (February 3,) called the attention of the house to the subject, and requested an investigation of the charges. A committee was accordingly appointed for this purpose, although not until after two days' debate. On the 9th, the committee reported, that Kremer had declined appearing before them to give any evidence or explanation touching the charges against the speaker, alleging that he could not do so without appearing either as an accuser or a witness; both of which he protested against. The committee, if they had known any reason for the investigation, would have asked for power to send for persons and papers; but having no such knowledge, they only laid before the house the letter of Mr. Kremer to the committee.

On the 25th of February, Mr. Kremer appeared in an address to his constituents, stating the grounds of his charges against Mr. Clay; among which were, (1.) Mr. Clay's disregard of the instruction of the legislature of Kentucky to vote for Gen. Jackson, contrary to his well known recognition of the right of the people to instruct their representatives, and of the obligation of the representative to obey the known will of his constituents. (2.) He and his friends had, through the whole canvass for the presidency, been decidedly hostile to Mr. Adams' election. (3.) He had persuaded western members friendly to Gen. Jackson to remain uncommitted, and to agree to go together, before determining on the candidate they would finally support. (4.) A member from Kentucky had observed to him (Kremer) that if Jackson should be elected, Adams, it was said, would remain secretary of state; and desired to know, if Clay and his friends should aid in electing Jackson, what Jackson would do for Kentucky. (5.) The office of secretary of state had been offered to him, and he had agreed to accept it.

On the appearance of this letter in the Washington City Gazette, William Brent, a member from Louisiana, published in the National Journal a statement, confirmed by two other gentlemen who were present, that, on the day of the debate on the proposition to refer Mr. Clay's communication respecting Mr. Kremer's card to a committee, he heard K. declare that he never intended to charge Mr. Clay with corruption or dishonor in his intended vote for Mr. Adams; or that he had transferred, or could transfer, the votes or interest of his friends. This statement of Mr. Brent, together with certain other reasons, induced the belief, that he was not the writer of the communications bearing his signature; and that he had been made an instrument for furthering the designs of others. Indeed, in an address "to the public," it was stated by Mr. F. Johnson, of Kentucky, on the authority of Mr. Crowinshield, of Massachusetts, in whose presence the acknowledgment had been made, that Mr. K. had not written the letter of the 25th of January

Mr. Clay, under date of March 26, 1825, through the National Journal, addressed the people of the congressional district he had represented, in vindication of the course he had taken in the election. He said, the fact that one of the three candidates returned had received a plurality of the electoral votes, gave him no claim to the support of the house. The will of the 99 could not rightfully control the remaining 162, nor any one of them : although it was a consideration which the house was called upon to weigh in making up its judgment. The precarious state of Mr. Crawford's health, the small number of votes he had received, and the impracticability of his election, were conclusive reasons against him. As between Gen. Jackson and Mr. Adams, the consideration of plurality was of less weight, and overbalanced by that of the superior fitness of the latter.

The resolutions of the Kentucky legislature requesting the delegation from that state to vote for Gen. Jackson, though entitled to respect, were not to be regarded as binding. The legislature, though speaking in behalf of the people, had had no means of ascertaining their wishes since the electors were chosen, when they had decided against the general. Besides, he had received *directly*, from many of his constituents, an expression of their disapprobation of the request of the legislature, with instructions to vote agreeably to his own judgment.

That he had not been in favor of Mr. Adams' election when the contest was before the people, was true. Neither was he in favor of the election of Gen. Jackson or Mr. Crawford. But during his whole acquaintance with Mr. Adams, there had been no interruption to the courtesies and hospitalities of social intercourse. He (Mr. Clay,) was said to be under a public pledge to expose some reprehensible conduct of Mr. Adams in the negotiation at Ghent. The letter which he had published in 1822, adverting to the controversy between Mr. Russell and Mr. Adams, did not justify such a conclusion. He had ascribed to both parties, and particularly to Mr. Adams, "some errors, (no doubt unintentional,) both as to matters of fact and matters of opinion, in regard to the transactions at Ghent, relating to the navigation of the Mississippi, and certain liberties claimed by the United States in the fisheries, and to the part he (Mr. Clay,) bore in these transactions;" and promised "at some future period to lay before the public a narrative of those transactions as he understood them." As to the time of executing this promise, he claimed for himself the exclusive right to judge. He had never given Gen. Jackson or his friends any reason to expect his support; and no one ought to have been disappointed by his not having voted for him.

The 1st session of the 19th congress, and the first under Mr. Adams

administration, commenced on the 5th of December, 1825. In the senate, the administration had a decided majority. In the house of representatives, the majority, if, indeed, there was any, was small, as was indicated by the vote on the choice of speaker; John W. Taylor, of New York, having been elected on the second ballot, by 99 votes against 94 for all other candidates. By the union, however, of the friends of Gen. Jackson and Mr. Crawford, in both houses, it was found difficult—in some cases impossible—to carry the measures of the administration.

The introduction of certain extraordinary questions into both branches of congress, prevented the consideration of several important measures suggested in the president's message. One of these extraordinary subjects was a proposition, by Mr. Benton, to amend the constitution respecting the election of president and vice-president; suggested, doubtless, by the result of the recent election. The mode proposed was by a direct vote of the people, in districts.

Mr. Benton also reported (March 1, 1826,) in favor of an amendment of the constitution, making members of congress ineligible to any civil office under the general government, during the presidential term in which they shall have served. Also as chairman of a select committee appointed "to inquire into the expediency of reducing the patronage of the executive government," he made a report, (May 4,) stating it as the conclusion of the committee, that the amount of patronage now exercised by the president, might and ought to be reduced by law, and presenting six bills for that purpose: (1.) A bill to regulate the laws of the United States, and of public advertisements. (2.) A bill to secure in office the faithful collectors and disbursers of the revenue, and to displace defaulters. (3, 4, and 5.) Bills to regulate the appointment of postmasters, cadets, and midshipmen. (6.) A bill to prevent military and naval officers from being dismissed the service at the pleasure of the president.

The appointment, by Mr. Adams, of Mr. Clay and several other members of congress to important offices, and the withdrawing of the patronage of the printing of the laws from some of the newspapers opposed to the administration, and bestowing it upon others that supported it, will sufficiently explain the object of these two last mentioned reports.

The people alone being competent to change the constitution, the committee say: "Not being able to lay the axe at the root of the tree, they (congress) must go to pruning the limbs and branches. Not being able to reform the constitution in the election of president, they must go to work upon his powers, and trim down these by statutory enactments, wherever it can be done by law, and with a just regard to the efficiency of the government. * * * They (the committee) have only touched,

in four places, the vast and pervading system of federal executive patronage: the press—the post-office—the armed force—and the appointing power. They are few, compared to the whole number of points which the system presents; but they are points vital to the liberties of the country. The press is put foremost, because it is the moving power of human action; the post-office is the handmaid of the press; the armed force its executor; and the appointing power the directress of the whole. If the appointing power was itself an emanation of the popular will—if the president was himself the officer and the organ of the people—there would be *less* danger in leaving to his will the sole direction of all these arbiters of human fate. But things must be taken as they are; statesmen must act for the country they live in, and not for the island of Utopia; they must act upon the state of facts in that country, and not upon the visions of fancy. In the country for which the committee act, the press, with some exceptions, the post-office, the armed force, and the appointing power, are in the hands of the president, and the president himself is not in the hands of the people. The president may, and in the current of human affairs, will be, against the people; and, in his hands, the arbiters of human fate must be against them also. This will not do. The possibility of it must be avoided. The safety of the people is the ‘supreme law;’ and to insure that safety, these arbiters of human fate must change position, and take post on the side of the people.”

By the first of these bills, the selection of newspapers for the publication of the laws, then made by the secretary of state, was to be made in each state by its senators and representatives in congress. The second bill required the president, in all nominations to fill vacancies, occasioned by the exercise of the president's power to remove from office, to state to the senate his reasons for the removal. And the offices of all collectors and disbursers of public moneys who should fail to account for the same, were to be vacated. Postmasters whose emoluments exceeded a certain sum, were to be appointed by the president and senate. Cadets and midshipmen were to be taken, one of each from each congressional district in the state, and the two corresponding to the number of senators, from the state at large. Officers in the army and navy were not thereafter to hold their offices “during the pleasure of the president,” but “during good behavior.”

Mr. Tazewell having moved the printing of an extra number of the report and bills, Mr. Randolph said he “hoped the largest number would be printed that had been printed of any document during the present session.” He wished the number to be equal to that of a certain document which he called “a message to the house to announce an elec

tionering arrangement;" alluding, as is supposed, to the message on the proposed Panama mission. Mr. R. said: "Though he had little faith in the strength of the virus of the executive poison which was attempted to be instilled into the public mind, he wished the antidote to proceed with it, *pari passu*." Accordingly 6,000 copies were ordered printed.

The bills were at the same time ordered to a second reading; but no farther action appears to have been taken upon them at that session, except to lay them on the table, on the motion of Mr. Macon, who had collected the facts and matured the subject, but whose ill health prevented his entering into the discussion of it.

From the unusual number of candidates for the presidency for more than a year before the election of 1824, it was apprehended that there would be no election by the presidential electors. To prevent an ultimate resort to the house of representatives, as well as to secure a uniform mode of choosing electors in the several states, numerous attempts were made in congress to propose to the states certain amendments to the constitution. Also bills were introduced into the legislatures of several states in which electors were chosen by the legislature, proposing to place the election in the hands of the people.

In the legislature of New York, a bill for this purpose passed the assembly, but was negatived in the senate. The defeat of the bill produced general dissatisfaction, which was plainly expressed at the next election of members of the legislature. In accordance with the will of the people, indicated by the return of a majority to both houses in favor of the proposed change, an electoral law was passed at the next session. This law, however, did not prescribe the mode of choosing the electors, but provided for submitting to the people, at their next annual election, (in 1825,) the question, whether the electors should be chosen by general ticket, or singly in the several congressional districts. The district system was adopted; but after the next presidential election, it was changed to the general ticket system, for the purpose of securing to the state an undivided vote in the election of president.

Propositions to amend the constitution were renewed at the next session. Among the plans submitted, was that of Col. Benton, just alluded to, proposing, (1.) A uniform mode by districts. (2.) The president and vice-president to be elected by a direct vote of the people. (3.) In case no candidate had received a majority of the votes first given, a second election was to be held and conducted as the first; the choice to be made from the two candidates having received the highest numbers of votes for the same office. This plan was very elaborately and ably argued in the report.

Choosing by electors, it was said, enabled the majority to impress the minority into their service, put it into the power of a few to control the election, and enabled the populous states to consolidate their votes, and to overwhelm the small ones. Electing by legislative ballot, took the election out of the hands of the people, left it with a preëxisting body chosen for a different purpose, and enabled the dominant party in the legislature to bestow the vote of the state according to their own sense of duty or private interest. Whereas, the district system gave to every state, and to the several sections of the state, due weight in the election. Besides, it was a mode of election in which either electors might be used, or a direct vote might be given by the people.

The advantages expected from the institution of electors, the report continued, had never been realized. It was the intention of the framers of the constitution to provide an independent body of men, chosen by the people from among themselves, on account of their superior discernment, virtue, and information, who should be left to make the election according to their own will. But the electors were not the independent body they were intended to be: they had no discretion. Candidates were selected by the people; and the electors were mere agents, and in a case where no agency was necessary. If, on the other hand, they were really independent, such independence was incompatible with the safety of the people. As was well known, they were oftener selected for their devotion to a party and electioneering tact, than for excellence of character. Hence the propriety of giving to the qualified electors a direct vote in the election of president and vice-president.

A direct election, it was also said, accorded better with the theory of our government. The principle that the mass, upon whom the laws operated, should elect those who make the laws, was equally applicable to those who execute the laws, and especially in the case of the president, who, in executing them, has at his command, not only the army and the navy, but the judiciary, and numerous other officers of his own appointment. The apprehension, on the part of the framers, that a popular election of president would be too tumultuous, and likely to be attended with violence, was without foundation. The state elections, at which the highest state officers and representatives in congress, had for nearly forty years been chosen directly by the popular vote, afforded no cause of alarm. Our liberties had far more to fear from indifference and a neglect of the elective franchise, than from excesses of violence. The last election was eminently adapted to excite the feelings of the people; yet not one-half of the voters of the United States had been got to the polls.

The committee laid down these axioms: *To prevent corruption,* (1.) Multiply the voters. (2.) Keep the candidates from among them

(3.) Avoid preëxisting bodies of electors. *To prevent violence and avoid coalitions*, separate the electors. The plan of the committee, the report said, had been brought to the test of each of these axioms, and found to abide them. The voters would consist of millions, and could not be corrupted; they would be scattered over the territory of the whole confederation, and could not hold intercourse with the candidates; they would vote at several thousand different places on the same hours of the day, and could neither fight nor coalesce; they were not a preëxisting body, in the sense of the objection, for that term applied only to small selected bodies.

Notwithstanding numerous and various amendments were moved in congress for several successive sessions, no proposition of amendment to be submitted to the states, at any time received the sanction of both houses.

CHAPTER XXVI.

THE PANAMA MISSION.

ONE of the principal topics of discussion at the session of 1825-26, was the "Panama Mission," so called from the proposition to send commissioners to a congress of the southern republics which was to assemble at Panama. This subject was thus alluded to in the annual message of the president:

"Among the measures which have been suggested to them by the new relations with one another, resulting from the recent changes of their condition, is that of assembling at the isthmus of Panama, a congress, at which each of them should be represented, to deliberate upon objects important to the welfare of all. The republics of Colombia, of Mexico, and of Central America, have already deputed plenipotentiaries to such a meeting, and they have invited the United States to be also represented there by their ministers. The invitation has been accepted; and ministers on the part of the United States will be commissioned to attend at those deliberations, and to take a part in them, so far as may be compatible with that neutrality, from which it is neither our intention, nor the desire of the other American states, that we should depart."

The first suggestion of the proposed congress was ascribed to Bolivar a conspicuous leader in the South American revolution, and for several years president of Colombia, one of the southern republics; and who, in

1823, invited Mexico, Peru, Chili, and Buenos Ayres to send delegates to Panama, with the design of forming a confederacy, for the purpose, as was by some alleged, of providing for a successful resistance to Spain, and for giving security to their independence. Appreciating the interest felt by the people of the United States for their southern neighbors in their revolutionary struggle, and the early recognition of their independence by our government, they extended the invitation to the United States. Verbal conferences on the subject had been held with the secretary of state, by the ministers of Mexico, Colombia, and Central America, at Washington; and in November, the invitation was formally given in letters to Mr. Clay; and several subjects were named as being deemed proper for the consideration of the congress.

In his answer to the ministers of Mexico and Colombia, Mr. Clay says: "In your note, there is not so exact a compliance with the conditions on which the president expressed his willingness that the United States should be represented at Panama, as could have been desired. It would have been, perhaps, better, if there had been a full understanding between all the American powers who may assemble by their representatives, of the precise questions on which they are to deliberate; and that some other matters respecting the powers of the deputies, and the organization of the congress, should have been distinctly arranged prior to the opening of its deliberations. But as the want of the adjustment of these preliminaries, if it should occasion any inconvenience, could be only productive of some delay, the president has determined, at once, to manifest the sensibility of the United States, to whatever concerns the prosperity of the American hemisphere, and to the friendly motives which have actuated your government in transmitting the invitation which you have communicated. He has, therefore, resolved, should the senate of the United States, now expected to assemble in a few days, give their advice and consent, to send commissioners to the congress. Whilst they will not be authorized to enter upon any deliberations, or to concur in any acts inconsistent with the present neutral position of the United States and its obligations, they will be fully empowered and instructed upon all questions likely to arise in the congress, on subjects in which the nations of America have a common interest."

On the 26th of December, the president sent to the senate a confidential message, stating some of the reasons for accepting the invitation, and nominating Richard C. Anderson, of Kentucky, and John Sergeant, of Pennsylvania, as commissioners, and William B. Rochester, of New York, as secretary of the mission. He again disclaimed the intention either "to contract alliances, or to engage in any undertaking or project of hostility to any other nation." He believed such a meeting would

afford a favorable occasion for establishing a more liberal as well as a more stable commercial intercourse than had been enjoyed, and principles which should govern their conduct as belligerents and neutrals in time of war. It might also be advisable to settle the question, whether the security of republican institutions did not require the parties to prevent any European power from establishing a colony within the borders of the parties—a principle announced by Mr. Adams' predecessor, and generally known as the "Monroe doctrine."

The appointment of committees was, by a rule of the senate, devolved upon the vice-president, as president of that body; and in constituting the committee on foreign relations, to whom the subject was referred, Mr. Calhoun had selected a majority of its members from the opponents of the administration.

The committee, on the 16th of January, reported adversely to the proposed mission. It was called a new and untried measure; and they saw no cogent reasons for departing from the established policy of the government. The objects of the congress should have been more particularly stated and defined, and the manner of their accomplishment more distinctly marked out. The committee took exception to several of the subjects of discussion mentioned by the different ministers, but to which the president had made no allusion. Nor did they consider the object of establishing the principles of a commercial intercourse as justifying a participation in the proposed congress. If the nations were wrong in supposing that their former commercial policy had been most conducive to their own interests, "the task of exhibiting their errors might be much better performed by particular discussions with each separately, than by general demonstrations made to all, assembled as a congress." They also questioned the authority of the government to enter into any negotiation with foreign nations for the purpose of settling or promulgating, either principles of internal policy, or mere abstract propositions, as parts of public law.

After an examination of all the reasons for the proposed mission, and the objects contemplated by it, the committee concluded their report with the resolution, "That it is not expedient, at this time, for the United States to send any ministers to the congress of American nations assembled at Panama."

A debate immediately ensued, in which the resolution was supported by Messrs. Hayne, Woodbury, White, Van Buren, Berrien, Dickerson, Benton, and Randolph; and opposed by Messrs. Robbins, F. Johnson, Holmes, and others. Many of the speeches were of great length, and the debate, as a whole, has seldom been surpassed in point of ability, in that body. It was continued until the 14th of March, when the resolu-

tion was negatived, by a vote of 19 to 24. The nominations were then confirmed by about the same vote; and the injunctions of secrecy were removed from the journal.

The concurrence of the house of representatives being necessary in an act appropriating the money for carrying the mission into effect, the subject was referred in that body to the committee of foreign relations, who, on the 25th of March, 1825, made a report in favor of the mission. In the opinion of the committee, the congress of Panama had been improperly compared with that of the allied sovereigns of Europe. It was neither a meeting of sovereigns, nor a government or branch of a government. It had, therefore, no legislative power; nor could its members, by their acts, bind each other, or the governments which they represented. They were mere diplomatic agents, having power only to discuss and negotiate, whose conclusions were subject to the ratification of some organic body at home. Besides, it was expressly stipulated in the treaties between these new republics, that the meeting at Panama should "not affect the national sovereignty of the contracting parties, in regard to their laws, and the establishment and form of their respective governments."

With respect to the constitutional objection, they perceived in the constitution no restriction on the appointment of foreign ministers by the proper authority. The objection erroneously assumed, that the congress was a government, or part of a government, or a confederacy of governments. The United States therefore would not enter into a confederation, or form a union with foreign powers, by sending ministers to treat with them.

The objection that the subjects of discussion, the powers of the ministers, and the rules of the congress, were not sufficiently settled, was deemed of little weight. The principal topics to be discussed had been stated; and as the power of the ministers was expressly restricted to that of negotiation; and as they were to be bound by no decision of the congress without their own consent, a minute detail on the points above mentioned was of no great importance.

Nor did the committee think our attendance would endanger our neutrality. Having acknowledged the independence of the new republics, we had already established our right to treat them as free and independent states. They were at war with Spain. The allies of Spain were taking no part in the war. Great Britain, the most powerful of those allies, had acknowledged the independence of several of these states, and established diplomatic relations with them. These acts of the United States and Great Britain, not only weakened Spain as a belligerent, but directly violated her colonial laws; yet she submitted to them. If, then,

our recognition of the independence of her revolting colonies, and our trading with them in contravention of her colonial laws, was no breach of neutrality, there could be none in our attendance at the proposed congress.

To the objection that we might become involved in an entangling alliance with the new states, it was answered, that the project of such alliance was expressly disclaimed by the president; that the congress was not a government with which we could form an alliance; that any agreement entered into must be submitted to the constitutional ratifying powers at home; and that an entangling alliance was no more likely to result from this mission than from any mission to any power. Indeed, an alliance might be more easily formed with a foreign sovereign, particularly an absolute one, who was himself competent to form an alliance, than could be done by our ministers to Panama, who would be accredited to other ministers no more competent than our own to pledge their governments. The committee farther observed, that the new republics being at war with the same enemy, and being in alliance with each other, an alliance with one of them would be as entangling as an alliance with them all. Hence, the reason that would forbid our attending the congress, would require us to withdraw our diplomatic connection with these states.

The mission had been objected to as novel and unprecedented. Because the establishment of several new republics at once was an unprecedented event, it did not follow that their subsequent acts or ours should be called novel and unprecedented. It was natural that these states should hold diplomatic conferences with each other, and with neighboring nations which had important relations with them. Similar meetings of friendly states had frequently been held. In principle, our meeting at the congress would not be without precedent. The negotiations in 1782, which resulted in the treaties of peace between the United States, France, and Great Britain, were of the nature of the conferences of diplomatic agents. On the principle that every act must have an exact precedent, the most important measures of our government could never have been adopted.

The proposed congress had been likened to that of the allied sovereigns of Europe (the "Holy Alliance"). But the pernicious character of the European congress consisted not in their assembling and treating together, but in the character of the governments and the objects to be effected. The objections to a congress of despotic powers, wielding the force of large standing armies, and concerting measures for violent interference in the internal affairs of other states, and especially to prevent the establishment of free institutions, did not hold against a congress of republics governed by written laws and elective magistrates.

Having considered the principal objections to the measure, and endeavored to show that it was consistent with our international policy, the committee considered the subjects of discussion, which, they said, by the terms of the invitation, as well as from the nature of the case, were to extend to all subjects of importance: (1.) To the new states, as among each other. (2.) Or, as between them and Spain. (3.) Or of importance directly to us, in our connection with them. Each power might propose for discussion or negotiation any subject it pleased; except that the United States, as was understood, were to engage in no discussion inconsistent with neutrality.

The importance, to us, of the relations of the new states to each other, arose from their proximity to the United States. One of them, (Mexico,) had an immense landed frontier on our territory, and, with two others, laid on those waters into which the great internal communications of the United States were discharged. With all of them we had important connections. Of the eight or nine independent states, formed out of the late Spanish and Portuguese colonies, seven, viz.: Mexico, Guatemala, Colombia, the Provinces of La Plata, Chili, Peru, and Upper Peru, had adopted republican governments. It was to us a matter of interest how these should stand toward each other. Should they fall into dissensions and wars, the great advantages we had anticipated from their growth and prosperity would not be realized. It would have been as well for us and for themselves, that the mother country had continued to rule them, as that their energies should be wasted in civil wars. Controversies arising from rival claims to portions of territory, already existed, and in one instance had resulted in war. It had already become necessary to ask an additional appropriation for the naval service, of nearly one hundred thousand dollars, to protect the lives and property of our citizens from the dangers to which, in the progress of this war, they would be exposed. Now, it was expressly provided in the treaties which led to the formation of the congress at Panama, that the ministers there assembled should exercise the office of mediators when such differences should arise. To the work of mediation, the United States would come as the most disinterested party. And if in but a single instance we could avert or terminate a war, it would itself form a sufficient motive for accepting the invitation.

Upon the subject of the relations of the new states with Spain, our ministers were not only to observe a strict neutrality, but to endeavor to effect a pacification; an object to us of vast importance. The revival of our languishing commerce with Spain, and its profitable expansion with the new states, could be expected only from the termination of the present contest.

But the most important subjects of discussion were the direct interests between the United States and the new republics. With some of them we had no treaties whatever; and with Mexico, none that was satisfactory. A conference of the ministers of all these new states would afford the best opportunity of establishing liberal and uniform relations with all. The United States, the committee said, had long labored to introduce into public law more liberal and equal principles. Our policy respecting the laws of war and trade differed in many points from that of Europe: and these new republics now ask the benefit of our experience in the great school of international politics. To refuse our attendance when urged upon this ground, would be to neglect the fairest opportunity ever afforded of diffusing liberal doctrines of public law.

In accordance with the views of the committee, they recommended the adoption of the following resolution: *Resolved*, That, in the opinion of the house, it is expedient to appropriate the funds necessary to enable the president of the United States to send ministers to the congress of Panama.

A bill providing for the necessary appropriations was on the same day, (March 25,) reported by the committee of ways and means.

The resolution was taken up in committee of the whole, on the 4th of April. The debate commenced on an amendment offered by Mr. M'Lane, of Delaware, proposing to instruct the ministers to attend the congress in a diplomatic character merely, and forbidding them to discuss or consider any proposition of alliance or compact which should bind us to resist interference from abroad with the domestic concerns of the South American governments, or should commit the neutral rights of the United States in regard to any other nations or states.

Among those who advocated the amendment, were Messrs. M'Lane, Wickliffe, Rives, Hamilton, Buchanan, Hemphill, Ingham, Forsyth, Archer, and Cambreleng; all of whom were opposed to the administration. The amendment was opposed by Messrs. Webster, Everett, Livingston, Buckner, Fr. Johnson, Wurtz, Thompson, and others. All the gentlemen last named were, it is believed, friends of the administration, except Mr. Livingston, of Louisiana. Several other amendments and substitutes were offered in the course of the debate, but they were all rejected. Mr. M'Lane's amendment was slightly modified before the final vote was taken upon it.

The amendment of Mr. M'Lane was opposed as being an infringement on the constitutional duties of the executive. The constitution vests the executive power in the president; and the giving of instructions to ministers was an exercise of executive power. The amendment virtu

ally prescribed such instructions; and its adoption would be an unauthorized assumption of power.

The general principle was also asserted, that the house was bound to carry treaties into effect, irrespective of their expediency; that the question of expediency was one which the house was not called upon to decide. Such was the opinion of Washington, who, when called on by the house for a copy of the instructions to Mr. Jay, who had negotiated the treaty with Great Britain, stated, as a reason for refusing to comply with the request, that treaties, "when ratified by the president, with the advice and consent of the senate, become obligatory;" and "that the assent of the house of representatives is not necessary to the validity of a treaty." Congress was morally bound to pay the salaries of the officers of the government. The appointment of ministers, by whom treaties were made, was also given to the president and senate; and hence was inferred the duty of the house, in the present case, to vote the salaries of the ministers who had been constitutionally appointed.

The proposed restriction upon the ministers in relation to any "proposition of alliance or compact, binding the United States to resist interference from abroad with the South American governments," was the subject of much discussion. It seems to have been intended to counteract the designs (if any existed) on the part of the executive, to carry into effect the declaration of Mr. Monroe against European colonization in America, and against any attempts of the Allied Powers to extend their system to any portion of this continent. One object which Mr. Monroe had in view, was to prevent the occupation of the island of Cuba by any other European power; an event then not altogether improbable, but which might endanger the safety of the United States. The restriction, it was urged, would place it out of our power to counteract such design. The president was known to coincide in this principle of Mr. Monroe; and Mr. Clay, in his general instructions to Mr. Poinsett, our minister to Mexico, had requested him to bring to the notice of the Mexican government the message of Mr. Monroe to congress, in 1823, in which the declaration was made.

The advocates of the restriction would not look with indifference on an attempt by any power to interfere with the independence of these republics, or to control their right of self-government; but they desired to be left free to adopt such measures as might be thought proper when the crisis should arrive. They denied that the amendment contained instructions, either to the president or to the ministers; and therefore it did not interfere with the constitutional rights of the executive. The right and the propriety of the house to express its opinion respecting the expediency of uniting in the contemplated congress, were asserted; as

also the right to withhold appropriations for the mission. It was held that the constitutional power to do any act, implied a discretionary power to determine its expediency. What rendered the exercise of this power peculiarly proper in the present instance, was, that the question was submitted to the judgment of the house in express terms by the resolution of the committee.

The debate on the resolution of Mr. M'Lane continued in committee of the whole, until the 20th of April, when the committee reported to the house the resolution of the committee on foreign relations, without amendment. Mr. M'Lane then moved, in the house, the amendment he had offered in committee, which, after several ineffectual motions to amend it, was adopted, 99 to 95. On the next day, the question was taken on the resolution of the committee on foreign relations as amended on motion of Mr. M'Lane, and decided in the negative: ayes, 54; noes, 143.

The bill providing for the expense of the mission was then taken up in committee of the whole, slightly amended, and reported to the house. Mr. M'Duffie moved to strike out the enacting clause, and supported his motion by a long, animated, and violent speech. The motion was lost, 61 to 134. On the following day, (April 22,) the bill was passed, 134 to 60.

It is impossible from these several votes to determine precisely the sense of the house upon the different points embraced in the general question. Some of the friends of the administration and of the mission without restriction, had voted for Mr. M'Lane's amendment, regarding it as not hostile to the intentions of the president as expressed in his message. The next day, however, some of them, considering the amendment an encroachment on the constitutional rights of the executive, united with those who were opposed to the mission as wholly inexpedient, in rejecting the amended resolution. Some probably voted for the bill appropriating the funds, who, though not friendly to the mission, considered it the duty of the house to make the appropriation without expressing its opinion on the expediency of the mission. Hence it is not certain, either that a majority of the house was in favor of the mission unrestricted, or of asserting a right to give instructions in relation to our foreign policy. The bill was concurred in by the senate, with but three dissenting votes.

The congress, composed of representatives from Colombia, Peru, Central America, and Mexico, assembled at Panama on the 22d of June, 1826. The United States were not represented. Mr. Anderson, our minister to Colombia, who had been ordered to attend the congress, died on the way; and the delay caused by the protracted discussion on the

subject of the mission, in both houses of congress, prevented the attendance of Mr. Sergeant. Sufficient time did not remain after the decision of the house to make the necessary preparation for his departure, and to cross the isthmus in time to avoid exposure to the sickness which prevailed there at a certain season of the year.

The congress closed its session the 15th of July; having concluded a treaty of league and perpetual friendship, in which the states not represented might join within the year. The congress adjourned to meet again in February, 1827, at Tacubaya, near the city of Mexico.

Mr. Poinsett, our minister to Mexico, was appointed commissioner in the place of Mr. Anderson, deceased; and Mr. Sergeant, with Mr. Rochester, secretary of the mission, departed for Tacubaya in November. The congress, however, did not assemble; owing, it was said, to the internal commotions in Colombia, Peru, and Central America, which had prevented the ratification, by their governments, of the treaties concluded at Panama. Until this should be done, it was believed the congress would not be resumed: and Messrs. Sergeant and Rochester returned the following summer.

Thus terminated the Panama mission, which, though well intended, and perhaps wise and proper if the congress had been fully attended, was, by the opponents of Mr. Adams, turned to the disadvantage of his administration.

CHAPTER XXVII.

CONTROVERSY WITH GEORGIA, IN RELATION TO THE REMOVAL OF THE INDIANS.

THE removal and settlement of the Indian tribes beyond the Mississippi, had been repeatedly made the subject of executive recommendation. Mr. Monroe, in a special message, March 30, 1824, called the attention of congress to the subject; and again on the 27th of January, 1825, a few weeks before the close of his administration. In the latter message, the president said: "The great object to be accomplished is the removal of these tribes to the territory designated, on conditions which shall be satisfactory to themselves and honorable to the United States. This can be done only by conveying to each tribe a good title to an adequate portion of land to which it may consent to remove, and by providing for it there a system of internal government, which shall

protect their property from invasion, and, by the regular progress of improvement and civilization, prevent that degeneracy which has generally marked the transition from the one to the other state."

The four principal southern tribes were the Creeks located in Georgia and Alabama, and numbering about 20,000; the Cherokees, in Georgia, Alabama, and Tennessee, 9,000; the Choctaws, in Mississippi and Alabama, 21,000; and the Chickasaws, in Mississippi, 3,625. For the removal of the tribes within the limits of Georgia, the president considered the motive peculiarly strong, arising from an existing compact with that state.

Georgia was the only state having large claims to unoccupied western lands, which did not make an early cession of them to the United States. At length, by a compact between the two governments, Georgia ceded to the United States her right and title to all the lands south of the state of Tennessee, and west of the Chatahoochie river, and a line drawn from the Uchee direct to the Nicojack on the Tennessee river. In consideration of this cession, the United States stipulated to pay the state of Georgia \$1,250,000, and "to extinguish at their own expense, for the state of Georgia, the Indian title to the lands lying within the limits of that state, as early as it could be peaceably obtained, and on reasonable terms."

The quantity of land owned by the Creeks at that time within the state of Georgia, was estimated at 12,578,890 acres. By several successive treaties, the last of which was held in 1821, the United States had procured the cession of 14,743,590 acres. At the date of the compact, the Cherokees were in possession of 7,152,110 acres, of which 995,310 acres had been acquired by the general government for Georgia. According to the report of the secretary of war accompanying the message of January 27, 1825, the Creeks still claimed in Georgia, 4,245,760 acres; and the Cherokees 5,202,160 acres. And the two tribes claimed in Alabama, 5,995,200 acres. The Cherokees claimed in Tennessee, 1,055,680 acres. The Choctaws and Chickasaws, claimed in Mississippi, 15,705,000 acres, and 1,276,976 in Alabama.

In farther fulfillment of the stipulation of the United States to extinguish the Indian title to lands in Georgia, a treaty was made February 12, 1825, with chiefs of the Creek nation, by which they ceded to the United States their lands in Georgia, and agreed to receive in exchange for them a like quantity west of the Mississippi on the Arkansas river, and the sum of \$400,000 as a compensation for the improvements made on their lands, for their losses and the inconveniences attending their removal, and for obtaining supplies in their new settlement. They were to remove from their lands in Georgia by the 1st of Sept., 1826.

The execution of this treaty by Gen. M'Intosh, one of the principal chiefs, and a few others, without the consent of the representatives of the Creek nation, gave great dissatisfaction. Under the policy adopted at an early period, the southern Indians had become in a good measure civilized, and were exchanging their habits of hunting for the pursuits of agriculture. They were therefore averse to any farther sales, and had enacted the punishment of death against any chief who should sanction such a measure. In accordance with this law, M'Intosh and one or two other chiefs were summarily executed for this unauthorized and fraudulent transaction.

It was this treaty that led to the unhappy controversy between the state of Georgia and the general government. The Indians were determined not to leave their lands; and the government of Georgia insisted on the fulfillment of the treaty. A special meeting of the legislature was called by Gov. Troup, for the purpose, chiefly, of providing for the survey and appropriation of the territory acquired from the Creeks. The governor, however, took occasion to notice another subject, which, from its supposed superior importance, or for other reasons, took precedence in the deliberations of the legislature. The language and conduct of the governor and the legislature, and especially that of the committee to whom the subject was referred, were generally regarded as both ludicrous and reprehensible.

Mr. King, a senator from New York, had at the preceding session of congress, offered a resolution proposing to appropriate, after the payment of the public debt, the proceeds of the sales of the public lands, to aid in the emancipation of slaves, and the colonizing of free persons of color, without the limits of the United States. This resolution had never been called up by the mover, being intended, as was supposed, merely for record as his opinion on the subject to which it related. Similar propositions had been pressed upon the consideration of congress by the legislatures of several slaveholding states. Also Mr. Wirt, of Virginia, attorney-general of the United States, had given an official opinion, that a law of South Carolina, authorizing the imprisonment of colored mariners arriving there, was unconstitutional.

These acts of Mr. King and Mr. Wirt, were pronounced by the governor in his message, "officious and impertinent intermeddlings with our domestic concerns." The doctrine of the attorney-general, if sanctioned by the supreme court, "would make it quite easy for congress, by a short decree, to divest this entire interest, without cost to themselves of one dollar, or of one acre of public land. If the government of the United States," said the governor, "wishes a principle established which it dare not establish for itself, a cause is made before the supreme

court; and the principle once settled, the act of congress follows of course. One movement of congress unresisted by you, and all is lost. Temporize no longer—make known your resolution, that this subject shall not be touched by them but at their peril. * * * If this matter, (slavery,) be an evil, it is our own; if it be a sin, we can implore the forgiveness of it. To remove it, we ask not either their sympathy or assistance. It may be our physical weakness—it is our moral strength. If, like the Greeks and Romans, we cease to be masters, we are slaves. I entreat you most earnestly, now that it is not too late, to step forth, and, having exhausted the argument, to stand by your arms.”

This subject was referred to a select committee, who presented to the house a report responding to the feelings and sentiments of the governor. “The hour is come,” say the committee, “or is rapidly approaching when the states, from Virginia to Georgia, from Missouri to Louisiana, must confederate, and, as one man, say to the union: “We will no longer submit our retained rights to the suiveling insinuations of bad men on the floor of congress—our constitutional rights to the dark and strained construction of designing men upon judicial benches; that we detest the doctrine, and disclaim the principle, of unlimited submission to the general government. * * *

“Let our northern brethren, then, if there is no peace in union, if the compact has become too heavy to be longer borne, in the name of all the mercies, find peace among themselves. Let them continue to rejoice in their self righteousness; let them bask in their own elysium, while they depict all south of the Potomac as a hideous reverse. As Athens, as Sparta, as Rome was, we will be: they held slaves; we hold them. Let the north then form national roads for themselves; let them guard with tariffs their own interest; let them deepen their public debt until a high-minded aristocracy shall arise out of it. We want none of all those blessings. But in the simplicity of the patriarchal government, we would still remain master and servant under our own vine and our own fig tree, and confide for safety upon Him, who of old time, looked down upon this state of things without wrath.”

The committee concluded their report with two resolutions, declaring their concurrence in the sentiments of the governor, and for the support of their determination to “stand by their arms,” pledging their lives, their fortunes, and their sacred honor; and requesting the governor to forward copies of the resolutions to the governors of the several states, and to their own senators and representatives in congress.

On the next day, (June 7,) another message was communicated, in which the governor again adverted to the resolutions of the state legislatures on the subject of slavery, and the acts of the individuals before

mentioned; complained of the efforts that had been made to render unavailing the guaranties of the constitution; and concluded thus:

"The attorney-general, representing the United States, says before the supreme court, in a ripe and splendid argument, that slavery, being inconsistent with the laws of God and nature, can not exist. Do we want more? or shall we wait until the principle being decided against us, the execution issues, and the entire property is bought in from the proceeds of our public lands? This is left to your decision. The United States can choose between our enmity and our love; and when you offer them the choice, you perform the last and holiest of duties. They have adopted a conceit; and if they love that more than they love us, they will cling to it and throw us off; but it will be written in your history, that you did not separate from the household without adopting the fraternal language: choose ye this day between our friendship and that worthless idol you have set up and worshiped."

The *object* of Gov. Troup in his endeavors to excite apprehensions at the south of a meditated attempt on the part of the general government, to divest them of their slave property, and to produce insurrections, the reader is left to conjecture.

But to return to the subject of the Indian difficulties. The attempt, by Georgia, to survey the Indian territory, was resisted by the Creeks; and the president ordered the projected survey to be abandoned, until the time prescribed by the treaty for their removal. And Gen. Gaines, who had been ordered to the scene of the disturbances, and required to quell them by force, if necessary, or, in the event of hostilities having subsided, to make peace upon just principles, and prevent farther acts of retaliation or violence, informed Gov. Troup in a letter, (June 14,) that he was authorized to state to the Indians, that the president had required a postponement of the survey. The governor promptly replied, that the laws of Georgia were already extended over the ceded country, and, of course, that it was his duty to execute them; and that the statutory provisions on the subject would be found in the late act "to dispose of and distribute the lands lately acquired from the Creek nation."

Gen. Gaines had been requested (June 13) to inform the government, without delay, of Gov. Troup's desire that the line between Georgia and Alabama should be run as early as possible. The latter declared his intention immediately to apprise the governor of Alabama to run the line between the two states, and ask his consent and coöperation; and said: "If that consent and coöperation be refused, we will proceed to run the line without them; as we will also proceed, in due time, to make the survey of the lands within our limits, disregarding any obsta

cles which may be opposed from any quarter." He said the government had issued its order upon false information of its agent, (Col. Crowell,) and thus reiterated his determination: "It is for you, therefore, to bring it to the issue; it is for me only to repeat, that, cost what it will, the line will be run, and the survey executed. The government of Georgia will not retire from the position it occupies to gratify the agent of the hostile Indians; nor will it do so, I trust, because it knows that, in consequence of disobedience to an unlawful mandate, it may be very soon recorded, that 'Georgia was.'"

A few days after, Gov. Troup received a letter from the war department, dated June 15, 1825, saying, if the government of Georgia should undertake the project of surveying the lands ceded to the United States by the Creeks in the treaty of the Indian Springs, before the expiration of the time specified for the removal of the Indians, it would be wholly upon its own responsibility; and that the government of the United States would not, in any manner, be responsible for any consequences which might result from that measure.

In his reply of June 25, the governor said: "If it is intended that the government of the United States will interpose its power to prevent the survey, or if only it means, that omitting its constitutional duty it will not pacify the Indians, and make safe the frontier, while the officers of Georgia are in peaceful fulfillment of their instructions, * * * in either event, the president may rest content that the government of Georgia cares for no responsibilities in the exercise of its right, and the execution of its trust, but those which belong to conscience and to God, who, thanks to him, is equally our God as the God of the United States." For the right of making the survey before the time at which the Indians were to give up the possession, the governor relied on the consent obtained from the party that executed the treaty.

Gen. Gaines, on the 10th of July, 1825, informed Gov. Troup that the chiefs of both parties had assured him that they would remain at peace with each other, and in no case injure the citizens of the United States; there would, therefore, be no occasion for calling into service any of the military force of that state. And in this letter the general inclosed the certificate of William Edwards and Joseph Marshall, (the latter an interpreter of the council of chiefs of the M'Intosh party,) stating, that, in answer to the request for permission to survey the land, M'Intosh had said he could not grant it, but would call the chiefs together, and lay it before them, which was never done. The governor, in proof of his having obtained such consent, referred to a letter of Gen. M'Intosh, saying: "If the general government and the agent of the Creek nation, with the party he influences make no objection or op-

position to running or surveying the land, myself and the chiefs and the Indians who were in favor of the treaty, do not object—we give our consent.”

But admitting the treaty to have been lawfully executed, and the alleged consent to have been fully given, it was held that such consent could not confer the right claimed by Georgia. The sovereignty of the soil was ceded to the United States: therefore Georgia could not lawfully bargain with the chiefs for the right of survey, without the assent of the United States. Nor could the general government itself grant the right in question, before the expiration of the period within which the removal was to take place; until which time, the United States were bound to protect the Indians “against the encroachments, hostilities, and impositions of the whites and all others.”

Gen. Gaines, who had met the chiefs of the M’Intosh party, and afterward, at Broken Arrow, the hostile party, with a view to the adjustment of differences, as before mentioned, had found, as he said, the reputed hostile party to consist of all the principal chiefs, and forty-nine fiftieths of the whole of the chiefs, head men and warriors of the nation, and considered them as in fact the Creek nation, and altogether free of the spirit of hostility ascribed to them. They objected to the treaty, alleging that it was fraudulent, entered into contrary to the law and will of the nation, and by persons not authorized to treat, and refused to acquiesce in it.

These facts and allegations having been communicated to the government, Mr. Barbour, secretary of war, under date of July 21, informed Gov. Troup that they were considered as presenting a question beyond the cognizance of the executive, and would be referred to congress; and that the faith of the United States being pledged to protect the Indians from encroachment till the time of their removal, the president had directed him “to state distinctly to his excellency, that, for the present, he will not permit the survey to be made.” Mr. Barbour also informed Gen. Gaines of the president’s determination, and intimated the possibility of “a collision, by overt acts, between the executive of the union and that of a state,” however “repugnant to the feelings of the president;” adding: “If Gov. Troup shall persevere in his declared purpose of surveying the land against the repeated remonstrances of the department, it will present one of the most unfortunate events which have yet occurred in our history.”

It may be proper here to state, that Col. Crowell, against whom, as Indian agent of the government, certain charges had been preferred by Gov. Troup, and whose agency had been suspended until an examination could be had, was acquitted, and restored to the duties of his agency

In the course of the correspondence between Gen. Gaines and Gov. Troup, some altercation took place. The ill-natured letters of the governor drew from the general a reply marked more strongly with sarcasm and invective, than with the qualities which usually distinguish diplomatic communications. This letter, dated duly 28, and addressed to the governor through the Georgia Journal, was followed by a note to the general, (August 6,) directing him to forbear farther intercourse with the government of Georgia, and informing him that his conduct would be represented to the president.

A long letter, (August 7,) was accordingly addressed to the president, animadverting upon the conduct and correspondence of Gen. Gaines, and preferring an extraordinary accusation, in the most exceptionable language, against the president himself. After having charged Gen. Gaines with "indiscretion, intemperance, deliberate disrespect, and the outrage of all decency," he adds: "The general is correct in one of his positions; and, being in the right himself, he puts you in the wrong, and so conspicuously, that *you stand on the insulated eminence, an almost solitary advocate for making and breaking treaties.*"

Gen. Gaines was accused, among other things, of having used his influence against Gov. Troup, who was a candidate for reëlection. Associating with the general for crimination other representatives of the government, he repeats the charge of "a most insulting interference with our local politics," and imputes to them "arrogance, self-sufficiency and a haughty and contemptuous carriage toward all the constituted authorities of the state;" adding as follows. "Now, sir, suffer me in conclusion to ask if these things have been done in virtue of your instructions, expressed or implied, or by authority of any warrant from you whatsoever; and if not so, whether you will sanction and adopt them as your own, and thus hold yourself responsible to the government of Georgia."

On receiving the letter from the department of July 21, declaring so decidedly the intention of the president to prevent intrusions upon the Indian territory, and to refer the treaty to congress, the governor concluded to defer the execution of his purpose. In his answer, (August 15,) he says: "Until the will of the legislature of Georgia is expressed, no measures will be taken to execute the survey. The executive of Georgia has no authority, in the *civil war* with which the state is menaced, to strike the first blow, nor has it the inclination to provoke it." He still insisted, however, on the right to make the survey, protested against the reference of the treaty to congress, and concluded by saying: "The legislature of Georgia will, on its first meeting, be advised to resist any effort which may be made to wrest from the state the territory acquired by that treaty, and no matter by what authority that effort

be made. * * * Our right not asserted now, is lost forever. If the legislature shall fail to vindicate that right, the responsibility will be theirs, not mine."

Gen. Gaines having continued his personal and caustic letters to the governor, the latter (August 31) demanded of the president the arrest and trial of the general according to the articles of war. The president (Sept. 19) informed Gen. Gaines of this demand, and of his decision not to accede to it; but expressed his disapprobation of the writing and publishing of the letters, and enjoined him, "in his future official intercourse with Gov. Troup, to abstain from every thing which may be deemed offensive;" adding, that he regarded the previous charges against him by Gov. Troup, and the publicity given to them, as affording a palliation of his conduct; without which, he (the president) would have considered it his duty to yield to the demand. This decision was also communicated to Gov. Troup, with a copy of the letter to Gen. Gaines.

The interest awakened by this controversy was not confined to this country. The belligerent attitude of Georgia toward the general government, was a prominent topic of newspaper remark abroad, and gained for that state and its valorous executive a wide notoriety. Apprehensions of a civil war were seriously entertained on the other side of the Atlantic, and a rupture of the union was regarded as among the probable consequences. Our government was considered too weak to endure, answering well enough for a small community, but inadequate to the wants of a great and growing nation. A state, thwarted in its interests by the measures of the general government, naturally looked to separation as the remedy. More correct opinions, however, generally prevailed even among foreigners. No serious alarm was extensively felt in this country; how much soever the injury inflicted by this affair upon our national character abroad was to be regretted.

The executive, having endeavored in vain to obtain the acquiescence of the Creeks to the treaty, and anxious to effect an amicable settlement of the controversy, succeeded, after much effort, in making a new treaty, (January 24, 1826,) which was satisfactory to the Indians, and by which was obtained, with the exception of only a small quantity, all their land lying within the state of Georgia. The treaty was negotiated at Washington by James Barbour, secretary of war, on the part of the United States, and a delegation of Indians duly authorized by the Creek nation.

On the 31st of January, it was submitted to the senate for ratification. At the suggestion of the Georgia senators, and with the view of securing to that state the whole of the Creek lands lying within the same, a new negotiation was entered into, and a supplementary article agreed on, extending two of the lines limiting the former cession, by

which the desired object would probably be attained depending on the establishment of the line to be run between Georgia and Alabama. The additional article was communicated to the senate the 31st of March; and, on the 22d of April, the treaty thus amended, having been duly ratified, was proclaimed by the president.

In the house, the bill "making appropriations to carry the treaty into effect," met with violent opposition from the Georgia members, who recorded their protest, asserting the validity of the former treaty, denying the right of the president and senate, without the consent of Georgia, to invalidate the right which that treaty secured to her; and they objected to the new treaty that it did not, by an express provision, cede all the lands of the Creeks in that state, nor require their removal before January, 1827. The bill was passed May 9, 1826, by 167 yeas to 10 nays.

But the controversy was not yet settled. Unwilling to submit to the terms of the new treaty, Gov. Troup (July 24) ordered the surveys to be commenced the first of September, 1826. The commissioners appointed to establish the boundaries between Georgia and Alabama having been unable to agree, the Georgia commissioners proceeded alone to run the line.

In January, 1827, complaints reached the department, that the Georgia surveyors had passed the line established by the treaty, and were surveying lands not ceded. The fact was communicated by the president to congress, February 5, with the information that he had ordered prosecutions against the intruders for the penalties incurred; and that if acts of encroachment were not discontinued, the military force would be employed to aid in executing the laws. The subject was referred to a committee in each house. The senate committee concluded their report recommending a resolution, requesting the president "to continue his exertions to obtain from the Creek Indians the relinquishment of any claim to lands within the limits of Georgia."

The committee of the house, at the close of a long report recapitulating the facts relating to the controversy, recommend the adoption of two resolutions: (1.) "That it is expedient to procure a cession of the Indian lands in the state of Georgia." (2.) "That, until such a cession is procured, the law of the land, as set forth in the treaty of Washington, ought to be maintained by all necessary, constitutional, and legal means." This report was made on the last day of the session; and there was consequently no time for a full discussion of the resolutions. Mr. Drayton, of South Carolina, offered a series of resolutions, declaring that Georgia possessed the right to the soil occupied by the Creeks; the right herself to extinguish the title to the same, and to legislate for the Indians; the right to survey the land; and that the treaty of the Indian Springs was

valid. No other action on the subject was taken, except ordering 6,000 copies of the report and accompanying documents to be printed.

Assurances that efforts would continue to be made by the president to obtain from the Indians a relinquishment of the small remainder of their unceded lands in Georgia, and that the opening of fresh negotiations had been prevented by the delay in fixing the dividing line between Georgia and Alabama, seem in a measure to have repressed, for a time, the hostile feelings of Gov. Troup toward the executive. But on his being officially apprised of the president's determination, expressed in his message to congress on the 5th of February, to employ force, if necessary, in executing the laws, his hostility revived; and, in a letter to the department, February 17, declares his purpose "to resist, to the utmost, any military attack from the government of the United States," and that measures for such resistance were in progress. "From the first decisive act of hostility," says the letter, "you will be considered and treated as a public enemy, and with the less repugnance, because you, to whom we might constitutionally have appealed for our own defense against invasion, are yourselves the invaders; and what is more, the unblushing allies of the savages, whose cause you have adopted."

On the same day, the attorney and solicitors general of the state were ordered to take the proper measures to effect the liberation of any surveyors that had been or might be arrested, by any civil process, under the authority of the general government, and to bring to justice the persons concerned in such arrestation. Major-generals were also required to issue orders to hold in readiness their regiments and battalions to repel any hostile invasion of the territory of the state.

Measures of resistance, however, appear to have been suddenly arrested. A few days after the governor's defiant letter to the secretary of war, he addressed a letter to the Georgia delegation in congress, expressing his pleasure on having just learned, that, since the communication of the secretary of war of the 29th of January, informing him of the intended employment of force to expel the surveyors, the president had taken measures to procure the residue of the Indian lands. The letter bears indications of having been written with subdued feelings. It says: "You are at liberty to state to the councils before whom you represent the interests and rights of this state, that the governor of Georgia has never entertained the idea of resorting to military force to counteract measures of the government of the United States, but on the occasion where it was deemed better in honor, in conscience, and in duty, to sacrifice every thing we hold dear, than unresistingly to submit."

The governor was not pleased with the reference of the question to the supreme court. He said: "It will be for the government of Georgia

ultimately to submit, or not, to the decision of that tribunal." He did not consider the supreme court the constitutional arbiter in controversies involving rights of sovereignty between a state and the United States. He complained of the wrong, cruelly inflicted, of having been charged with seeking a dissolution of the union, and concluded with the hope of success to the contemplated negotiation, and an amicable adjustment of difficulties, wishing them to "make use of this disclosure and explanation" in endeavoring to promote the peace and harmony which ought always to subsist between the states and the United States, in which he assures them none can feel deeper concern than himself. The controversy was at length concluded, about the first of January, 1828, by a treaty for the purchase of their remaining strip of land in Georgia.

The policy recommended in the message of Monroe to which we have alluded, of effecting the removal of the Indian tribes beyond the Mississippi, seems not to have been lost sight of by the succeeding administration. In compliance with a request from the committee on Indian affairs, Mr. Barbour, the secretary of war, on the 3d of February, 1826, transmitted to the chairman of that committee, the project of "a bill for the preservation and civilization of the Indian tribes within the United States," with a report elucidating its purposes. The secretary in this admirable report, deplors their threatened extinction; recognizes their appeals to our compassion; and recommends the adoption of a just and humane policy as due alike to the Indians and to the character of our nation. The following paragraphs from this report will be read with interest:

"It is the province of history to commit to its pages the transactions of nations. Posterity look to this depository with intense interest. The fair fame of their ancestors, a most precious inheritance, is to them equally a source of pride, and a motive of continued good actions. But she performs her province with impartiality. The authority she exercises in the absence of others, is a check on bad rule. The tyrant and the oppressor see, in the character of their prototypes, the sentence posterity is preparing for them. Which side of the picture shall we elect? for the decision is left to ourselves. Shall her record transmit the present race to future generations, as standing by, insensible to the progress of the desolation which threatens the remnant of this people? or, shall these unfriendly characters give place to a generous effort which shall have been made to save them from destruction? While deliberating on this solemn question, I would appeal to that high Providence, whose delight is justice and mercy, and take counsel from the oracles of his will, revealed to man, in his terrible denunciations against the oppressor.

"In reviewing the past, justice requires that the humane attempts of

the federal government, cœval with its origin, should receive an honorable notice. That they have essentially failed, the sad experience of every day but too strongly testifies. If the original plan, conceived in a spirit of benevolence, had not been fated to encounter that as yet unabated desire to bereave them of their lands, it would, perhaps, have realized much of the hopes of its friends. So long, however, as that desire continues to direct our councils, every attempt must fail. A cursory review is all that is necessary to show the incongruity of the measures we have pursued, and the cause of their failure.

"Missionaries are sent among them to enlighten their minds, by imbuing them with religious impressions. Schools have been established by the aid of private as well as public donations, for the instruction of their youths. They have been persuaded to abandon the chase—to locate themselves, and become cultivators of the soil. Implements of husbandry and domestic animals have been presented them, and all these things have been done, accompanied with professions of a disinterested solicitude for their happiness. Yielding to these temptations, some of them have reclaimed the forest, planted their orchards, and erected houses, not only for their abode, but for the administration of justice, and for religious worship. And when they have so done, *you* send *your* agent to tell them they must surrender their country to the white man, and recommit themselves to some new desert, and substitute, as the means of their subsistence, the precarious chase for the certainty of cultivation. The love of our native land is implanted in every human bosom, whether he roams the wilderness or is found in the highest state of civilization. This attachment increases with the comforts of our country, and is strongest when these comforts are the fruits of our own exertions. We have imparted this feeling to many of the tribes by our own measures. Can it be matter of surprise that they hear, with unmixed indignation, of what seems to them our ruthless purpose of expelling them from their country thus endeared? They see that our professions are insincere; that our promises have been broken; that the happiness of the Indian is a cheap sacrifice to the acquisition of new lands; and when attempted to be soothed by an assurance that the country to which we propose to send them is desirable, they emphatically ask us: 'What new pledges can you give us that we shall not again be exiled when it is your wish to possess these lands?' It is easier to state than to answer this question. A regard to consistency, apart from every other consideration, requires a change of measures. Either let him retain and enjoy his home, or, if he is to be driven from it, abstain from cherishing illusions we mean to disappoint, and thereby make him to feel more sensibly the extent of his loss."

The bill prepared by the secretary provided, (1.) A country to be procured west of the Mississippi, and beyond the states and territories, for their future and permanent residence; the right to the soil and protection against the intrusion of white settlers to be guarantied to them. (2.) Their removal by individuals, or by portions of tribes, if the whole tribes were unwilling to remove. (3.) Establishing and maintaining a territorial government by the United States for their protection and civilization. (4.) If circumstances should ultimately justify it, the extinction of tribes and their amalgamation into one mass, and a distribution of property among the individuals, instead of its being held in common by a tribe. (5.) The condition of those that remain to be left unaltered.

No definitive action, however, was had upon this bill; nor was any proposition for the removal of the Indian tribes adopted during the administration of Mr. Adams.

CHAPTER XXVIII.

RUSSIAN AND BRITISH CLAIMS ON THE PACIFIC COAST.—OCCUPATION OF COLUMBIA RIVER.—PUBLISHING THE LAWS.

PORTIONS of the coast on the Pacific ocean, north of the 42d degree of north latitude, were claimed by the United States, Russia and Great Britain. But prior to the treaty of the 5th of April, 1824, between the United States and Russia, the territorial boundaries of neither of the claimants had been established.

By a resolution of the house of representatives, February 16, 1822, the president was requested "to communicate to the house, whether any foreign government had claimed any part of the territory of the United States on the coast of the Pacific ocean, north of the 42d degree of latitude, and whether any regulations had been made by any foreign powers affecting the trade on that coast," &c. In compliance with this resolution, the president, on the 15th of April, communicated the correspondence between our government and the governments of Russia and Great Britain.

Pierre de Poletica, Russian minister at Washington, on the 11th of February, 1822, had transmitted to Mr. Adams, secretary of state, a printed copy of a regulation adopted by the Russian American company, and sanctioned by the emperor. This regulation interdicted the approach of all vessels except Russian, within one hundred Italian miles of the

shore of any territory claimed by that government, and assumed a right to the territory as far south as the 51st degree of north latitude. This territorial claim, as well as the right to exclude our vessels from the shore beyond the ordinary distance to which territorial jurisdiction extends, our government was unwilling to concede.

Mr. Adams, in reply, said it had been expected that the boundary would have been arranged by treaty. And he asked explanations of the grounds of such claim and regulations, upon principles generally recognized by the laws and usages of nations.

It was answered, that Russia based her territorial claims upon discoveries; the first of which was dated back to the time of the emperor, Peter I. Captain Behring made his first voyage of discovery in 1728. In his second expedition, 1741, discoveries were made as far south as the 49th degree of north latitude; and establishments were soon after formed by Russians along the coast. In 1799, the emperor, Paul I, granted to the Russian American company their first charter, which gave them the exclusive possession of the coast from the 55th degree to Behring's strait, and permitted them to extend their discoveries south, and to form establishments, provided they did not encroach upon territory occupied by other powers.

The treaty by which Spain ceded the Floridas, and certain territory west of the Mississippi, gave to the United States all that belonged to Spain north of the 42d degree, but did not define the northern boundary.

From the foregoing facts it appeared, that the rights of Russia specified in the regulations of the Russian American company, rested on the three bases required by the general law and usage of nations: (1.) The first discovery. (2.) First occupation. (3.) Peaceable and undisputed possession for more than fifty years. As Spain never had a title to territory beyond the line assigned for the limits of the Russian possessions, and as the United States had no other title than that acquired by the treaty of the 22d of February, 1819, above mentioned, the establishment of this line could not interfere with the just claims of the United States. The 51st degree had been selected, as being the mean point between the Russian establishment at New Archangel, under the 57th degree, and the American colony at the mouth of the Columbia river, under the 46th degree.

The prohibition of foreign vessels for so great a distance, was but a measure of prevention, and was directed against foreign adventurers who were not content with exercising an illicit trade on the coast, injurious to the rights of the Russian American company, but furnished arms and ammunition to the natives, exciting them likewise to resistance and revolt against the authorities in the Russian possessions. A majority of

these adventurers had been American citizens. Possessing territory also on the Asiatic side of the Pacific from the strait to the 45th degree of north latitude, Russia might exercise the rights of sovereignty over the whole sea, north of the 51st degree !

Mr. Adams dissented from the principle upon which Russia had extended her claim to the 51st degree, viz., that it was equidistant from New Archangel and the mouth of the Columbia river. Since the limits prescribed by the emperor Paul to the Russian American company were fixed at the 55th degree, no settlement had been made justifying any claim to territory south of that point. New Archangel, it was said, too, was not situated on the continent, but was a small settlement upon a small island, in latitude 57. With regard to the prohibition upon foreign vessels, Mr. A. said the vessels of the United States, had, during our existence as an independent nation, freely navigated those seas, and the right to navigate them was a part of that independence. Respecting the absurd suggestion that Russia might have made a close sea of the Pacific because she claims territory on both shores, he thought it sufficient to say, that the distance from shore to shore in latitude 51, was 4,000 miles ! Nor could the United States admit the justice of the reason assigned for the prohibition. The right of our citizens to trade with the aboriginal natives beyond the territorial jurisdiction of other nations, even in arms and munitions of war, was as clear and indisputable as that of navigating the seas. And if any well founded charge had ever been made against our citizens for a violation of that right, it would have received the most pointed attention of the government.

The Russian minister, in reply, adduced new arguments to establish the claims of his government to the 51st degree. The great extent of the ocean did not invalidate the right to make it a close sea. The imperial government, however, had never taken advantage of that right. As to the right claimed for our citizens of trading with the natives without the limits of Russian jurisdiction, his government did not think of limiting it ; but if it should be extended beyond the 51st degree, it would meet with difficulties for which the American owners must accuse their own imprudence !

The negotiation, at the request of the imperial government, was subsequently transferred to St. Petersburg, where a treaty was concluded the 5th of April, 1824, by our minister, Henry Middleton, and Count Nesselrode. By this treaty, the boundary line was established at 54 degrees 40 minutes north latitude. The citizens of the United States were not to resort to any point where there was a Russian establishment without permission of the governor or commander : and the subjects of Russia were under similar restrictions as to American establishments,

And for the term of ten years, the vessels of both parties were to have free admission into the interior seas, gulfs, harbors, and creeks upon the coast, for the purposes of fishing and trading with the natives.

Mr. Monroe, in his annual message to congress, December 7, 1824, recommended the establishment of a military post at or near the mouth of the Columbia river, to protect our increased and increasing fisheries on the Pacific. A bill for this purpose was accordingly introduced into the house, with an additional provision, directing the president to open a port of entry in the territory, and empowering him to appoint a governor, judges and other officers for the territory. These provisions were, however, struck out of the bill. The establishment of a territorial government was considered premature; and the opening of a port of entry, and the consequent demand of duties from British traders, would interfere with the treaty with Great Britain, by which a free and open trade was guaranteed to both powers for a certain term of years. This gave rise to a discussion, in congress, of the claims of Great Britain on the north-west coast.

It was held that Great Britain had no just claim to any part of the territory. Spanish navigators had first discovered the coast as far as the 58th degree of north latitude. The claim of Spain, founded on first discovery, became ours by the treaty of the 22d of April, 1819. We had claimed the country before the war of 1812, as had also Russia and England. But their titles were mere pretenses. Our government had sent out Lewis and Clark to explore the country; and soon after, our fur traders took possession near the mouth of the Columbia or Oregon river, and in 1810 built there the little town called Astoria. After the commencement of the war, the British traders, aided by the Indians, drove our traders from the country, and held it until the treaty of Ghent, when, according to the stipulation of that treaty, it was restored. Possession was taken by Mr. Prevost, agent of the United States, who also took possession of the British post near the bay; the English settlers, however, protesting against our right to take it.

Immediately after the departure of Mr. Prevost, the British flag was again hoisted, and the country occupied as British territory. This occurred a few days before the treaty of London was signed, Oct. 20, 1818. By the provisions of that treaty, the territory claimed by either party, within its waters, was to be free and open, for ten years, to the vessels, citizens and subjects of the two powers; but the treaty was not to be construed to the prejudice of the claim of either party.

The establishment of a military post to occupy the country, was urged as necessary to enable us to preserve our claim. At the end of ten years, Great Britain might insist on the parties being put back to their

former condition; and although holding by wrong, yet being in actual possession, when the treaty was concluded, she might represent our rights during the joint occupancy as a mere lease; and neglecting to reoccupy the country, we should lose an important advantage in hereafter treating to reclaim it. Great commercial advantages, too, it was believed, would be gained by the occupation of the country. It would enable us to command the trade of China, and other parts of eastern Asia, and the north Pacific. A military post at the mouth of the Columbia river, with trading houses in the territory, would command the fur trade; and the fur trade and traders would command the Indians, and be the surest means of preserving peace with them.

Fears had been expressed that our confederacy might become too widely extended. Although the federative system was well adapted for the government of an extensive nation, there were limits which it would not be safe to pass. Our system might properly include all who had a mutual interest in being united. To carry it farther, would weaken the bond of union, and endanger the confederacy. But what might be the fate of the federation if extended beyond the Stony Mountains, or what might be the condition of the people of Oregon centuries hence, was not a matter of immediate concern. Posterity would know how to take care of itself, and to provide for its own dangers.

To induce the settlement of the Oregon territory, a section had been inserted in the bill, granting land to the settlers. This section was struck out, and the bill, (Dec. 23,) passed the house, 113 to 57. In the senate, the bill was taken up for consideration on the 25th of February, 1825, and, without a discussion of its merits, laid on the table until the next day, when the consideration was resumed. It was supported by Mr. Barbour, in a short speech, which was followed by one of greater length from Mr. Dickerson.

Upon the question of the title of the United States to the territory proposed to be settled, the speakers did not essentially differ. Mr. Barbour said, the very full exposition of our claim given by the American plenipotentiary to the court of St. James, (Mr. Rush,) left but little for him to add on this point. By a comparison of that state paper with the counter statement of the representative of that court, the claim of Great Britain, as to the territory on the Oregon, was without foundation. He believed we had in the spirit of friendship and forbearance, made a sacrifice to Russia of five degrees of our just claim, and in the same spirit had been willing to make an equal sacrifice to Great Britain; and he hoped she would close with the terms proposed. The United States could yield no farther: consequently, our claim must be held as unquestionable many degrees to the north of the proposed settlement

Mr. Barbour, recurring to the pretensions of the European nations to portions of this territory, said, Spain, under whom we claimed, had unquestionably the undivided credit of first discovery, and so far the best title, to which she superadded the grant of the head of the Christian world, in the person of the Pope: and however ridiculous the latter might now seem, it was at that time respected by the civilized world. But this respect had yielded eventually to cupidity; and the other nations of Europe had proceeded to appropriate such portions as accident or circumstances enabled them to do, in opposition to the claims and the protests of Spain.

In favor of the proposed establishment, Mr. B. mentioned its obvious advantage to our navigating interest in time of peace. It would furnish a friendly asylum for our vessels in an otherwise strange, distant, and perhaps hostile region. It would also be valuable as a dépôt for internal commerce, and highly advantageous in the event of war.

With reference to the apprehended dangers of an undue extension of our empire, Mr. Barbour said: "Fifty years ago, and the valley of the Mississippi was like the present condition of the country of the Oregon. It is now teeming with a mighty population—a free and happy people. Their march onward to the country of the setting sun, is irresistible. I will not disguise, that I look with the deepest anxiety on this vast extension of our empire, and to its possible effects on our political institutions. Whatever they may be, however, our forefathers decided the experiment should be made. * * * Our advance in political science has already cancelled the dogmas of theory. We have already ascertained, by the happy combination of a national and state governments, but above all, by a wise arrangement of the representative system, that republics are not necessarily limited to a small territory; and that a government, thus arranged, produces not only more happiness, but more stability and more energy, than those the most arbitrary. Whether it is capable of indefinite extent, must be left to posterity to decide. But in the most unfavorable result, a division, by necessity, from its unwieldy extent—an event, I would devoutly hope, afar off—we even then can console ourselves with the reflection, that all the parts of the great whole will have been peopled by our kindred, carrying with them the same language, habits, and unextinguishable devotion to liberty and republican institutions."

Mr. Dickerson, in opposition to the bill, said, that our having acquired this territory, and the march of population being toward that region, imposed upon congress no obligation to provide for its occupation or population, unless the interests of the United States should require it. As yet, we had extended our laws to territories only that were to become

states of the union. Oregon could never become one of the United States.

The bill was opposed also as being inconsistent with our treaty with Great Britain, by which any portion of the country claimed by either party, should, with its harbors and other navigable waters, be free and open to the vessels and citizens of the two powers. Although we thought our claim incontestible to the 49th degree, Great Britain had already extended her settlements to the Columbia river, and had set up a pretense of claim to the territory north of the Columbia to its mouth. It was not for congress to ascertain or limit the extent of the claim. The treaty recognized a claim to some undefined part of the territory; and until after its expiration in 1828, it would be improper to take possession of this territory by military force, or to establish a port of entry, as was proposed by the bill.

The president—so the bill provided—was to cause a fort to be erected on either the left or the right bank of the river, as he should deem expedient, and to cause the Indian title to be extinguished to a tract of land thirty miles square, or 900 square miles, including the fort. This tract ought to include both banks of the river, and a considerable portion of territory claimed by the British government. As yet, that government had done nothing to contravene the provisions of the treaty; but would they quietly see us take possession of the country, erect fortifications, purchase the Indian title to a large tract of land, and establish ports of entry? The joint occupation was intended to prevent disputes; but the measure proposed would lead to immediate collisions. If we were entitled to the whole of the territory, let all peaceable means be employed to obtain our rights, before we attempted to enforce them by military occupation. If the two governments would make a perpetual treaty, to take no farther possession of that territory than might be necessary for trading with Indians, they would do more for the cause of humanity than had been done in the present age.

Nor did he, (Mr. D.,) think the measure was required at this time for the protection of our shipping and our commerce. He contended that neither as a colony nor as a state, could that country be of any essential benefit to the union; he therefore thought it inexpedient to adopt any measure for its occupation and settlement. He repeated the declaration, that Oregon would never become a member of the union; and he undertook to show the difficulty if not the impossibility of obtaining from it a representation in congress.

Estimating the distance from the mouth of the Columbia river to Washington at 4,650 miles, a member of congress from the state of Oregon must travel, going to and returning from the seat of government,

9,300 miles. Supposing him to travel at the rate of 30 miles per day, and allowing for Sundays, 350 days of the year would be required to go and return. This would allow him a fortnight to rest himself at Washington before commencing his journey home. As a considerable part of the way was over rugged mountains, covered the greater portion of the year with a great depth of snow, he thought traveling at the rate of 30 miles per day a hard duty. Yet a young, able-bodied senator might travel from Oregon to Washington and back, once a year; but he could do nothing else. He might come more expeditiously, however, by water round Cape Horn, or through Behring's Strait, round the north coast of this continent to Baffin's Bay, thence through Davis's Strait to the Atlantic, and so on to Washington. It was true, he said, this passage had not yet been discovered, except on our maps; but it would be as soon as Oregon would be a state.

Mr. Dickerson concluded by moving that the bill be laid on the table; and the motion was carried: ayes, 19; noes, 17.

On the 1st of February, 1827, a resolution was offered by Mr. Saunders, of North Carolina, calling upon the secretary of state for a list of the newspapers in which the laws were directed to be published during the years 1825, 1826, and 1827, designating the changes which had been made, and stating the reasons for each change. This resolution gave rise to a debate, marked no less distinctly by its party character, than by the acrimonious feeling of members. It was intended as an animadversion upon the conduct of the secretary of state, who, it was alleged, had, from personal and political motives, made certain changes in newspapers selected to publish the laws and public advertisements.

This exercise of the power of patronage was broadly reprobated by the advocates of the resolution. It was calculated to control the freedom of the press, and to enlist that powerful instrument in the service of the administration. In the distribution of the public printing, the rule should be to retain an individual as printer of the laws, when his employment was desired by upright men of republican principles, and when there were no other reasons than those of a personal or political nature for taking it from him. So to apply the patronage of the government as to harmonize eighty-two presses in praising every act of the administration, and to punish them with the loss of patronage if they dared censure its measures, was to form a *government press*, which was more alarming to the liberties of the people, than the organization of the whole of our standing army formed into a guard of the palace.

The resolution was opposed as useless, so far as regarded the papers employed in 1825 and 1826; information for these years. and for 1824

having been communicated to the house last year. A call for the reasons which influenced a public officer in the discharge of a duty assigned him by law, was believed to be without precedent in the annals of legislation. The act of 1820 required the secretary to cause laws and treaties to be published in newspapers, not exceeding three in each state and territory, and one in the District of Columbia; leaving it to his discretion to employ one paper to-day and another to-morrow. The power, if abused, could be taken from the secretary, and bestowed upon some other person or persons. But the call for his motives was improper and unjust. With equal propriety might the president, or all the heads of departments, be called on for the causes or reasons for their acts, or the mover of the resolution for the reasons which prompted him to offer it.

It was held to be proper for the secretary to employ his friends rather than his enemies. Mr. Jefferson had acted on this principle. He had removed faithful public officers on purely political grounds; and, as in the case of the collector of the port of New Haven, against the wishes of a large majority of the people of the district, as expressed in a memorial to the president. The present administration had not carried the principle so far as had been done by Mr. Jefferson. Of the eighty or more papers, only sixteen had been changed. Of these changes, a number were known to have been made from geographical considerations; and in four instances, the persons displaced and those appointed were of the same political party. And there might be other changes which had been made from necessity.

The debate on this subject was continued until the 26th of February, when it was abruptly terminated; a few days only of the session remaining, and the press of business not permitting a farther discussion of the resolution. If the reader will bear in mind the sentiments of the parties to this discussion, he will soon see how easily the opinions of men and parties are changed by a reverse of circumstances.

CHAPTER XXIX.

WEST INDIA TRADE.—NAVIGATION OF THE ST. LAWRENCE.

THE illiberal commercial policy of Great Britain established by her numerous navigation acts, has been the subject of remark in preceding chapters. Although by the conventions (treaties) of 1815 and 1818, reciprocity of commerce had been established between the United States

and the territories of Great Britain in Europe, for a period of ten years from the last mentioned date, the exclusion of our vessels from her colonies was continued. Hence an act was passed by congress in April, 1818, closing our ports against British vessels arriving from any port or place in any British territory to which our vessels were not admitted.

But as the ports of those American colonies which had occasionally from interest or necessity, been opened to our vessels, were not considered as included in the act of 1818, an act was passed in May, 1820, extending the interdiction to all her American colonies. This measure was not without effect. The West India colonies had been supplied with our products through the British North American colonies, into which they were admitted, and thence carried in British vessels. But the closing of this channel of trade, through which the West India colonies had obtained supplies of lumber and provisions, operated with severity upon these colonies. Memorials were addressed to parliament presenting their distress; and Great Britain was induced to relax her rigorous policy.

On being informed that parliament was about to open the colonial ports to our vessels, congress passed an act the 6th of May, 1822, in anticipation; authorizing the president, on satisfactory evidence being given him that those ports had been thus opened, to proclaim the ports of the United States opened to British vessels employed in this trade, under such reciprocal rules and regulations as he might, by such proclamation, make and publish. In June, the anticipated act of parliament was passed, by which certain enumerated ports were opened to vessels of the United States; and, in conformity to the act of the 6th of May, the president, on the 24th of August, issued his proclamation, declaring the ports of the United States open to British vessels coming from those ports in the British West India and North American colonies, with the productions of these colonies.

As that provision of the act of May, 1822, which gave the president authority to issue his proclamation, was to continue in force only till the expiration of the next session of congress, an act was passed the 1st of March, 1823, continuing the discriminating duties on imposts and tonnage, but authorizing the president, by proclamation, to remove them on satisfactory proof being given him, that no higher duties were imposed on our vessels and merchandise than on those coming from other places. The proof required by the act not having been communicated to the president, no proclamation was issued. The tonnage upon British vessels was one dollar per ton; upon American vessels, six cents, making the discrimination in favor of the latter, ninety-four cents. Great Britain then, by an order in council, issued June 17, 1823, imposed a

retaliatory discriminating tonnage duty of equal amount, ninety-four cents per ton.

The administration was charged with having needlessly and unjustly provoked Great Britain to this act of retaliation, which, its opponents said, might and ought to have been prevented by the removal of our discriminating duty. We had therefore no reason to complain of having been met with a duty equal to our own. To this it was replied, that the duty upon British vessels was more than counterbalanced by restrictions and disadvantages imposed upon our trade with the colonies prior to the enactment of this additional burden. It was also claimed, on our part, that American goods as well as the vessels conveying them, should be admitted into the colonies on the same terms as those of Great Britain: and the act of 1823 had accordingly adopted this principle. Great Britain, considering her colonies as integral parts of her empire, insisted that she should not be required to exact duties on goods carried from one British port to another.

In the hope of effecting an amicable arrangement by treaty, a negotiation was opened by our government through our minister at London. But during a suspension of the negotiation, which, however, it was mutually understood, was to be speedily resumed, other acts of parliament were passed, in June and July, 1825, again opening certain colonial ports upon new terms and conditions; but providing that these ports should be closed against any nation which should not accept these terms. Our government did not accept them, for the reasons, as was alleged, that those acts had never been officially communicated; that they were so obscure as not to be understood, having received different constructions by the British officers in the different colonies; and that pledges having been given to resume negotiation, it was deemed expedient to await the result of that negotiation, rather than to subscribe implicitly to terms the import of which was not clear, and which the British authorities themselves in this hemisphere were not prepared to explain.

Immediately after the close of the session of congress in May, 1826, Albert Gallatin was despatched as minister to London, in the hope of effecting a satisfactory arrangement. Notwithstanding Great Britain herself had requested the appointment of an additional minister—Mr. King being unable, from ill health, to conduct the negotiation—two days after Mr. Gallatin's arrival, and before his credentials had been presented, an order in council was issued cutting off all negotiation, and prohibiting all intercourse with her West India colonies from the first day of December following.

To countervail this rigorous measure, bills similar in their provisions

were introduced in both houses of congress at the next session, proposing to shut our ports, after the 30th of September, against all vessels coming from all British colonies or possessions not included in the general treaty, unless the colonial ports should be reopened to our vessels on certain prescribed terms. Neither of the bills, however, became a law.

The act of March 1, 1823, provided, that if at any time our trade and intercourse with the enumerated colonial ports should be prohibited by Great Britain, proclamation of the fact having been made by the president, the prohibitory provisions of the acts of 1818 and 1820 were to be revived. Congress having failed to adopt any countervailing measure, the president, on the 17th of March, 1827, made the necessary proclamation, and declared the trade and intercourse with the said ports to be prohibited.

The West India question had assumed a party character. Our disadvantages were said to be the result of a mistaken policy by the administration and its predecessors. The want of concession, the extravagance of our demands, the rejection of fair overtures from Great Britain, tardy legislation, and an unwarrantable reliance on negotiation, were among the alleged hinderances to a favorable adjustment. But whatever of neglect or unskillful management might have been justly chargeable to the administration, the previous history of the commercial policy of Great Britain, her persisting refusal to the United States of a fair participation in the colonial trade, and her declining farther negotiation in 1826, after a previous pledge to resume it, without giving any other reason than was found in the remark of Mr. Canning, that "he would not be drawn into the discussion of a subject that had already been exhausted;"—afforded strong presumptive evidence of her indisposition to arrange the trade with us on equitable terms.

Ever intent on protecting her navigating interest, the next measure of Great Britain was an act of parliament authorizing the inland introduction from the United States into Canada, free of duty, of ashes, staves, lumber, horses, fresh provisions, and sundry other productions, to be thence carried in British vessels to England and the West Indies, as Canadian produce. And the more effectually to cripple our navigation and improve her own, the duties on these articles coming from the United States direct, were largely increased, while from Canada they were admitted under a very light duty. A letter from a mercantile house in Liverpool received in this country, said: "The object of these arrangements is to monopolize the carrying trade; and in them is to be found the true secret why the ministry declined to negotiate respecting the West India trade. Although they had pledged themselves to adjust the matter by negotiation in 1824, and renewed the pledge in 1825, in 1826 they deter-

mined to change their policy ; and the clamors of the shipping interest though unjust, urged them into it in an ungracious manner : and if you had accepted their terms, they would, when they determined to change the system, have found means to evade the spirit of that act by some other."

The expectations, on the part of Great Britain, concerning the effects of this measure, were materially disappointed. Our produce still found a market in the British islands by way of the neutral islands, to which it was transported in American vessels ; and thence it was reshipped to the British islands. Hence our navigation was not very sensibly affected ; and our exports to the West Indies, instead of their having been diminished, were actually increased, notwithstanding the prohibition, though probably not in consequence of it. On the other hand, the Canadians complained that the arrangement had not secured to them the advantage of supplying the West India islands ; and the extra cost of this indirect trade fell upon British consumers.

This arrangement, however, did not long continue. New treaties were concluded by Mr. Gallatin and the British commissioners at London, the 6th of August, 1827. The ratifications were exchanged at London, April 2, 1828 ; and the treaties were proclaimed by the president the 5th of May following. By these treaties it was provided, that the treaties of 1815 and 1818, which by their terms were limited to a period of ten years from the date of the latter, should be continued for another term of ten years.

A convention was also concluded, by which the parties agreed to settle the boundary line, by submitting the question to some friendly power for arbitration. The king of the Netherlands was selected as the umpire. His award, which was made in January, 1831, was not satisfactory to the United States. In fact, he did not decide upon the question submitted to him. Instead of deciding between the conflicting claims of the parties, he selected a new line claimed by neither party. Great Britain, having been awarded, though not all she claimed, yet what she most desired—a free communication between her provinces—gave her assent to the decision. The subject was submitted to the senate, in January, 1832. That body, after having duly considered the question, advised the president to open a new negotiation for the adjustment of the boundary.

A subject of negotiation between the United States and Great Britain, was the navigation of the river St. Lawrence, commenced before the close of Mr. Monroe's administration. In his annual message of December, 1823, in connection with the subject of the north-eastern boundary, Mr. Monroe says : " It appearing from long experience, that no satisfactory arrangement could be formed of the commercial intercourse between

the United States and the British colonies in this hemisphere by legislative acts, while each party pursued its own course without agreement or concert with the other, a proposal has been made to the British government to regulate this commerce by treaty, as it has been to arrange, in like manner, the just claim of the citizens of the United States inhabiting the states and territories bordering on the lakes and rivers which empty into the St. Lawrence, to the navigation of that river to the ocean. For these and other objects of high importance to the interests of both parties, a negotiation has been opened with the British government which, it is hoped, will have a satisfactory result."

On the 7th of January, 1828, Mr. Adams, then president, in compliance with a resolution of the house of the 17th of December, transmitted to that body the correspondence with the government of Great Britain relative to the free navigation of the St. Lawrence. This correspondence derives much of its importance from the principle of public law which forms the chief subject of discussion.

Mr. Adams, secretary of state, in a letter to Mr. Rush, minister at London, in 1823, suggested that the navigation of the St. Lawrence might be claimed by our citizens as a *right*, which, he thought, might "be established upon the sound and general principles of the law of nature." If the right had not been distinctly asserted in negotiation with the British government, it was because the benefits of it had been *tacitly* conceded. This right was asserted upon the principles which were asserted when our right to the navigation of the Mississippi was in question. The people had the natural right of communicating with the ocean, by the only outlet provided by nature, from the waters bordering upon their shores. It was admitted that the possession of both the shores of a river at its mouth had been held to give the right of obstructing or interdicting the navigation of it to the people of other nations, inhabiting the banks of the river above the boundary of that in possession of its mouth. But the exclusive right of jurisdiction over a river, Mr Adams said, originated in the social compact, and was a right of sovereignty. The right of navigating the river was a right of nature, preceding it in point of time, and which the sovereign right of one nation could not annihilate, as belonging to the people of another.

By the act of parliament of June 24th, 1822, the people of the United States enjoyed the navigation from the ocean to Quebec; and by an act of August 5th, 1822, above that port. But by a discretionary power given to the colonial governments in Canada, the latter of these concessions might be withdrawn, by excepting any of the Canadian ports from those to which our vessels were made admissible by that act; so that our enjoyment of the navigation of this river was contingent.

upon British permission. And the duties imposed by the act upon all those of our exports which could render the trade profitable, were prohibitory.

The grounds of our claim were duly presented by Mr. Rush. He urged the consideration also, that "the exclusive right possessed by Great Britain over both banks of this river, had been won for her by the coöperation of the people who now form the United States. Their exertions, their treasure, their blood, were profusely embarked in every campaign of the old French war; a war which, but for the aid of New England, New York, and Pennsylvania, if no more of the states, would probably not have terminated when it did, in the conquest of Canada from France. * * * The predecessors of the present inhabitants of those states had borne a constant and heavy burden in that war, and had acquired, simultaneously with the then parent state, the right of descending the stream, on the hypothesis, assumed for the moment, of their not having possessed it before; a right of peculiar importance to them, from their local position and necessities." Thus a title had been established by *joint acquisition*. Several quotations from Vattel and Grotius were made in order to sustain the claim of the United States.

Mr. Rush, in one of his papers to the British government, said: "Having seen the grounds of *necessity and reason upon which the right of so great and growing a population to seek its only natural pathway to the ocean rests*, it may be expected that they should be supported by the established principles of international law." He cites Vattel, as follows: "Nature, who designs her gifts for the common advantage of men, does not allow of their being kept from their use when they can be furnished with them, without any prejudice to the proprietor, and by leaving still untouched all the utility and advantages he is capable of receiving from his rights." Again: "Property can not deprive nations of the general right of traveling over the earth in order to have a communication with each other, for carrying on trade and other just reasons." "A passage ought also to be granted for merchandise; and as this may in common be done without inconvenience, to refuse it without just reason, is injuring a nation, and endeavoring to deprive it of the means of carrying on a trade with other states." And again: "If neither the one nor the other of two nations, near a river, can prove that it settled first, it is to be supposed that they both came there at the same time, since neither can give a reason of preference; and in this case the dominion of each will be extended to the middle of the river." Hence, Mr. Rush argued, that, if the settlements, having been made by the two nations at the same time, gave them equal dominion, "by even a stronger reason would simultaneous *acquisition* confer equality of pass-

age." To the same effect from Grotius: "Upon this foundation of common right, a free passage through countries, *rivers*, or over any part of the sea, which belong to some particular people, ought to be allowed to those who require it for the necessary occasions of life, whether those occasions be in quest of settlements, after being driven from their own country, or to trade with a remote nation." "A free passage ought to be allowed, not only to persons but to merchandise; . . . a permission which, for the interest of society, should be maintained; nor can it be said that any one is injured by it; for though he may thereby be deprived of exclusive gain, yet the loss of what is not his due, as a matter of right, can never be considered as a damage, or the violation of a claim."

Hence, our minister claimed, on the ground of paramount interest and necessity to our citizens, and on that of natural right founded on this necessity, a full and free navigation of this river, from its source to the sea.

The British plenipotentiaries expressed their surprise at the claim of the United States, on the ground of *right*. It required an enlarged view of what one nation owed in courtesy to another, to justify the British government in entering on the discussion of a claim so novel and extensive. A right claimed on one side without qualification, leaves no room for friendly concession on the other. As a *concession* on the part of Great Britain, for which they expected an equivalent, and as such only, they were willing to treat with the United States. They replied at length to the arguments of Mr. Rush, and alleged that he had made a wrong application of the authorities quoted. The right of navigating this river, alleged to be a right of nature, preëxistent in point of time, and incapable of annihilation, could be no other than what is generally designated in the law of nations as a *perfect right*, which is one that exists independent of treaty; which necessarily arises from the law of nature; which is common to all independent nations, and can never be denied or violated by any state without a breach of the law of nations. Such was the right to navigate the ocean without molestation in time of peace. Applying these principles, now universally admitted, to the case of the St. Lawrence, the American government maintained that Great Britain, possessing both shores of the river at its mouth, would be no more justified in controlling American navigation on that river, than on the high seas. But falling under the denomination of an *imperfect* right, it became subject to considerations entirely different.

The case of the Mississippi, it was said, was not in point. Its navigation had been opened to British subjects by the treaty of 1763, concluded after a war in which Great Britain had been successful. France had made this concession from the same motives as had induced her to cede

Canada to Great Britain. The agreement respecting that river made a part of the general provisions as to the western boundary of the British American possessions, by which the whole left side of the Mississippi was ceded to Great Britain, except the town and island of New Orleans. This reservation had been admitted on the express condition, that the navigation of the whole channel should be open to British subjects. The very fact of its having been thought necessary to insert this stipulation in the treaty, in consequence of France having retained possession of both banks of the river at a single post, led irresistibly to an inference the reverse of what was maintained by the American plenipotentiary.

Nor was the right founded upon *acquired* title conceded by Great Britain. If the liberty of navigating the St. Lawrence, which the people of the United States enjoyed when a part of the British empire, continued to belong to them after their separation from the mother country, the subjects of Great Britain would have an equal right, in common with American citizens, to the use of the navigable rivers of the United States, which they enjoyed when both countries were united under the same government. By the treaty which acknowledged the independence of the United States, a perpetual line of demarkation had been drawn between the two powers, no longer connected by any other ties than those of amity and conventional agreement. The people of the United States, thus separated from Great Britain, could not possibly retain any portion of the sovereignty of the British empire.

Mr. Gallatin, in September and October, 1827, wrote to Mr. Clay, that the government of Great Britain was still unwilling to entertain any proposition respecting the navigation of the St. Lawrence founded on the right claimed by the United States to navigate that river to the sea; and he advised, that, whilst the trade with the British West Indies remained interdicted, the intercourse by land or inland navigation with the North American British provinces be left to be regulated by the laws of each country, respectively. The measures of which our citizens had complained, no longer existed. The warehousing system had been extended to the ports of Montreal, Quebec, and St. Johns, and places of deposit were allowed for American produce, free of duty, in case of exportation; which was all that we could, in that respect, ask as a matter of right. The navigation between Montreal and Quebec, either to the sea, or from the sea, could not now be obtained by treaty stipulation without what would be considered a disclaimer of the right.

Mr. Clay, in his instructions to Mr. Gallatin, having said that the president could not consent to any treaty by which the United States should renounce the right of navigating the St. Lawrence and Great Britain persisting in her refusal to acknowledge this right, the negotiation was unsuccessful.

CHAPTER XXX.

NOMINATION OF GEN. JACKSON.—MORE OF THE “COALITION.”—JACKSON’S LETTERS ON THE TARIFF AND INTERNAL IMPROVEMENTS.

Soon after the election of Mr. Adams, it became apparent that he was destined to encounter, alone, in the next presidential campaign, the opposition of his most formidable rival in 1824.

As early as October, 1825, Gen. Jackson was nominated by the legislature of Tennessee as a candidate for president in 1828. After a long preamble, in which the legislature disclaim being “influenced by the motive of state pride or personal considerations,” they resolve, “That Gen. Andrew Jackson, of this state, be recommended to the freemen of the United States, as a fellow-citizen, who, by his numerous and faithful public services in the cabinet and in the field, his energy and decision, his political qualifications, and strict adherence to the principles of republicanism, merits to be elected to the office of chief magistrate of this union, at the next presidential election.” This resolution was said to have been unanimously adopted in one house, and with but one dissenting voice in the other.

On the next day, (October 7,) a series of resolutions was adopted, expressive of the respect and attachment entertained by the legislature towards the general, and of their purpose to receive him in the representative hall on the day next after his arrival at the seat of government; and the speakers, on behalf of the two houses, were required to deliver to him addresses, expressing the satisfaction of the legislature in relation to the course he pursued during the pendency of the late presidential election.

The general arrived at Murfreesborough on the 13th, and the next day he was conducted by a committee of the legislature to the hall, and addressed by the speakers of the two houses; to which he made an appropriate reply, and then handed in a resignation of his seat in the senate of the United States.

He assigned as reasons for his resignation, the fatigue of traveling to and from Washington, and the fact that nothing of great national importance was likely to come before congress, except the proposition to amend the constitution in relation to the election of president. He intimated that he might have thought it his duty to continue in the senate to aid in effecting such alteration. But having been apprised of his nomination, he could no longer hesitate as to the course he should pursue, and

accordingly asked to be excused from any farther service in the councils of the nation ; saying, that he " could not consent to urge or encourage an alteration which might wear the appearance of being induced by selfish considerations."

He then proceeded to make some suggestions in reference to the amendment proposed to be made. He thought some new barrier to the encroachments of power was necessary. " There is no truth," he observed, " more conclusively stamped upon all the state constitutions, as well as the federal constitution, than that which requires the great departments of power, the legislative, judicial, and executive, to be kept separate and apart. * * * Gratitude to the founders of our happy government, can not be lessened by honest efforts, on our part, to improve, or rather to fortify, the blessings which have been transmitted to us, with such additional safeguards as experience has proved to be necessary.

" Upon this principle, I venture fully to accord with you in the contemplated change proposed to the constitution ; and indeed would go farther. With a view to sustain more effectually in practice the axiom which divides the three great classes of power into independent, constitutional checks, I would impose a provision rendering any member of congress ineligible to office, under the general government, during the term for which he was elected, and for two years thereafter, except in cases of judicial office ; and these I would except for the reason, that vacancies in this department are not frequent occurrences, and because no barrier should be interposed in selecting, to the bench, men of the first talents and integrity." * * *

" The effect of such a constitutional provision is obvious. By it congress, in a considerable degree, would be free from that connection with the executive department which at present gives strong ground of apprehension and jealousy on the part of the people. Members, instead of being liable to be withdrawn from legislating on the great interests of the nation, through prospects of executive patronage, would be more liberally confided in by their constituents ; while their vigilance would be less interrupted by party feelings and party excitements. Calculation from intrigue or management would fail ; nor would their deliberation or their investigation of subjects consume so much time. The morals of the country would be improved ; and virtue, uniting with the labors of the representatives, and with the official ministers of the law, would tend to perpetuate the honor and glory of the government.

" But if this change in the constitution should not be obtained, and important offices continue to devolve on the representatives in congress, it requires no depth of thought to be convinced, that corruption will be-

come the order of the day ; and that, under the garb of conscientious sacrifices to establish precedents for the public good, evils of serious importance to the freedom and prosperity of the republic may arise. It is through this channel that the people may expect to be attacked in their constitutional sovereignty, and where tyranny may well be apprehended to spring up in some favorable emergency. Against such inroads, every guard ought to be interposed ; and none better occurs than that of closing the suspected avenue with some necessary constitutional restriction. We know human nature to be prone to evil ; we are early taught to pray that we may not be led into temptation ; and hence the opinion that, by constitutional provision, all avenues to temptation, on the part of our political servants, should be closed.

“ As, by a resolution of your honorable body, you have thought proper again to present my name to the American people, I must entreat to be excused from any farther service in the senate, and to suggest, in conclusion, that it is due to myself to practice upon the maxims recommended to others ; and hence feel constrained to retire from a situation where temptations may exist, and suspicions may arise of the exercise of an influence tending to my own aggrandizement.”

This nomination of Gen. Jackson by the legislature of his own state, was early followed by nominations in other parts of the country. A large portion of the friends of Mr. Crawford, having had a stronger repugnance to Gen. Jackson than to any other candidate at the last election, were for a time unwilling to unite with the friends of the latter. There being, however, no hope of succeeding with any other candidate, such union was at length effected ; and the organization of the opposition to Mr. Adams may be considered as having been completed early in 1827.

Although the excitement produced by the union of the friends of Adams and Clay in the election of president had experienced some abatement, the subject had by no means been permitted to slumber. The term, “ coalition party,” had acquired a common use among the opposition in designating the friends and supporters of the administration. “ Coalition ”—“ bargain ”—“ corruption ”—were as familiar as household words. As electioneering arguments, they had been found too effective not to be employed in the attempt to overthrow the administration. Much of their efficiency was derived from facts and circumstances which furnished at least some *apparent* ground for the accusation.

In April, 1827, whether from a design to influence the approaching presidential election, or for some other purpose, the following anonymous letter was published in the Fayetteville (N. C.) Observer :

"NASHVILLE, 8th March, 1827.

"I have just returned from Gen. Jackson's. I found a crowd of company with him; seven Virginians were of the number. He gave me a most friendly reception, and urged me to stay some days longer with him. He told me this morning, before all his company, in reply to a question I put to him concerning the election of J. Q. Adams for the presidency, that Mr. Clay's friends made a proposition to his friends, that if they would promise, for him, not to put Mr. Adams into the seat of secretary of state, Clay and his friends would, in one hour, make him, Jackson, the president. He most indignantly rejected the proposition, and declared he would not compromit himself; and unless most openly and fairly made the president by congress, he would never receive it. He declared that he said to them, he would see the whole earth sink under him, before he would bargain or intrigue for it."

To the statements contained in this letter, persons professing to speak by authority of Mr. Clay, gave a prompt and unequivocal denial, and expressed the belief, that the declarations ascribed to Gen. Jackson had never been made by him. It soon became known, that the author of this letter was Carter Beverley, of Wheeling, Virginia. His veracity being impeached by the above denial, he wrote to Gen. Jackson, (May 15,) requesting a written confirmation of the statements in his letter to his friend in North Carolina. The following is an extract from the general's reply:

"HERMITAGE, June 5, 1827.

"*Dear Sir* :— * * * Early in January, 1825, a member of congress of high respectability, visited me one morning, and observed, that he had a communication he was desirous to make to me; that he was informed there was a great intrigue going on; and that it was right I should be informed of it. * * * He said he had been informed by the friends of Mr. Clay, that the friends of Mr. Adams had made overtures to them saying, if Mr. Clay and his friends would unite in aid of the election of Mr. Adams, Mr. Clay should be secretary of state. That the friends of Mr. Adams were urging, as a reason to induce the friends of Mr. Clay to accede to their proposition, that if I was elected president, Mr. Adams would be continued secretary of state, (inuendo, there would be no room for Kentucky.) That the friends of Mr. Clay stated, the west did not wish to separate from the west; and if I would say, or permit any of my confidential friends to say, that, in case I was elected president, Mr. Adams should not be continued secretary of state, by a complete union of Mr. Clay and his friends, they would put an end to the presidential contest in one hour. And he was of opinion it was

right to fight such intriguers with their own weapons. To which, in substance, I replied, that in politics, as in every thing else, my guide was principle; and, contrary to the expressed and unbiased will of the people, or their constituted agents, I never would step into the presidential chair; and requested him to say to Mr. Clay and his friends, (for I did suppose he had come from Mr. Clay, although he used the term of Mr. Clay's friends,) that before I would reach the presidential chair by such means of bargain and corruption, I would see the earth open, and swallow Mr. Clay and his friends, and myself with them. If they had not confidence in me to believe, if I was elected, that I would call to my aid in the cabinet men of the first virtue, talent and integrity, not to vote for me. The second day after this communication, and reply, it was announced in the newspapers, that Mr. Clay had come out openly and avowedly in favor of Mr. Adams.

"It may be proper to observe, that, in the supposition that Mr. Clay was privy to the proposition stated, I may have done injustice to him; if so, the gentlemen informing me can explain."

To these statements, Mr. Clay, in a letter "to the public," dated June 29, 1827, and in a speech at Lexington, July 12, gave another unqualified denial. In the letter he says: "Gen. Jackson having at last voluntarily placed himself in the attitude of my public accuser, we are now fairly at an issue. I rejoice that a specific accusation by a responsible accuser has at length appeared, though at the distance of near two and a half years since the charge was first put forth through Mr. George Kremer. * * * Such being the accusation and the prosecutor and the issue between us, I have now a right to expect that he will substantiate his charges, by the exhibition of satisfactory evidence. In that event, there is no punishment which would exceed the measure of my offense. In the opposite event, what ought to be the judgment of the American public, is cheerfully submitted to their wisdom and justice."

To this the general replied, July 18, in an address "to the public," in which he named James Buchanan, of Pennsylvania, as the member of congress by whom the disclosure had been made, and in which, after repeating the conversation as related in his letter to Beverley, and mentioning some other circumstances, he said: "What other conclusion or inference was to be made, than that he spoke by authority, either of Mr. Clay himself or some of his confidential friends? The character of Mr. Buchanan, with me, forbids the idea that he was acting on his own responsibility, or that, under any circumstances, he could have been induced to propose an arrangement, unless possessed of satisfactory assurances that, if accepted, it would be carried fully into effect. * * *

Still I have not said, nor do I now say, that the proposal made to me was 'with the privity and consent' of Mr. Clay, nor either have I said that his friends in congress had made propositions to me."

This brought out Mr. Buchanan in a letter, August 8, to the editor of the Lancaster Journal. As the truth of the charges of Gen. Jackson depends essentially for confirmation upon the testimony of Mr. Buchanan, all the more material parts of his letter are here given. He says:

"In the month of December, 1824, a short time after the commencement of the session of congress, I heard, among other rumors then in circulation, that Gen. Jackson had determined, should he be elected president, to continue Mr. Adams in the office of secretary of state. Although I felt certain he had never intimated such an intention, yet I was sensible that nothing could be better calculated both to cool the ardor of his friends, and inspire his enemies with confidence, than the belief that he had already selected his chief competitor for the highest office within his gift. I thought Gen. Jackson owed it to himself and to the cause in which his political friends were engaged, to contradict this report, and to declare that he would not appoint to that office the man, however worthy he might be, who stood at the head of the most formidable party of his political enemies."

Alluding to a conversation he had with Mr. Markley, a representative from Pennsylvania, Mr. Buchanan says: "Mr. Markley adverted to the rumor which I have mentioned, and said it was calculated to injure the general. He observed that Mr. Clay's friends were warmly attached to him, and that he thought they would endeavor to act in concert at the election. That if they did so, they could elect either Mr. Adams or Gen. Jackson, at their pleasure; but that many of them would never agree to vote for the latter, if they knew that he had predetermined to prefer another to Mr. Clay for the first office in his gift. And that some of the friends of Mr. Adams had already been holding out the idea, that in case he were elected, Mr. Clay might probably be offered the situation of secretary of state."

Mr. Buchanan, having suggested that some one ought to call upon General Jackson, and get from him a contradiction of the report, says: "Mr. Markley urged me to do so, and observed, if Gen. Jackson had not determined whom he would appoint secretary of state, and should say that it would not be Mr. Adams, it might be of great advantage to our cause for us so to declare, upon his own authority: we should then be placed upon the same footing with the Adams men, and might fight them with their own weapons. That the western members would naturally prefer voting for a western man, if there were a probability

that the claims of Mr. Clay to the second office in the government should be fairly estimated; and that if they thought proper to vote for Gen. Jackson, they could soon decide the contest in his favor."

Mr. Buchanan, desiring to obtain from Gen. Jackson a contradiction of the report, called on him for that purpose; informed him of the report in circulation, and told him that it might be injurious to his election; and that, if he had not determined to appoint Mr. Adams, the report should be promptly contradicted under his own authority. Mr. B. in relating the conversation between himself and Gen. Jackson, says farther: "I mentioned, it had already probably done him some injury, and proceeded to relate to him the substance of the conversation which I had held with Mr. Markley. I do not remember whether I mentioned his name, or merely described him as a friend of Mr. Clay.

"After I had finished, the general declared, he had not the least objection to answer my question; that he thought well of Mr. Adams, but had never said or intimated that he would, or that he would not, appoint him secretary of state; that these were secrets he would keep to himself;" and "that if he should ever be elected president, it would be without solicitation and without intrigue on his part. I then asked him if I were at liberty to repeat his answer. He said I was perfectly at liberty to do so to any person I thought proper. * * * I do not recollect that Gen. Jackson told me I might repeat his answer to Mr. Clay and his friends; though I should be sorry to say he did not.

"I called on Gen. Jackson solely as his friend, upon my individual responsibility, and not as the agent of Mr. Clay or any other person. Until I saw Gen. Jackson's letter to Mr. Beverley of the 5th ult., and at the same time was informed by a letter from the editor of the United States' Telegraph, that I was the person to whom he alluded, the conception never once entered my mind that he believed me to have been the agent of Mr. Clay or of his friends, or that I had intended to propose to him terms of any kind for them, or that he could have supposed me to be capable of expressing the opinion, that it was right to 'fight them with their own weapons.' He could not, I think, have received this impression, until after Mr. Clay and his friends had actually elected Mr. Adams president, and Mr. Adams had appointed Mr. Clay secretary of state. After those events had transpired, it may be readily conjectured in what manner my communication has led him into the mistake I deeply deplore that such has been its effect."

A letter from Mr. Eaton, a senator from Tennessee, to the public, (September 18,) follows that of Mr. Buchanan. He differs with Mr. B. as to the date of the interview with Gen. Jackson, making it about the 20th of January. He says: "In January, 1825, a few days before it

had been known that Mr. Clay and his friends had declared in favor of Mr. Adams, I was called upon by Mr. Buchanan, of Pennsylvania. He said it was pretty well understood, that overtures were making by the friends of Adams, on the subject of cabinet appointments: that Jackson should fight them with their own weapons. He said the opinion was, that Jackson would retain Adams, and that it was doing him injury. That the general should state whom he would make secretary of state, and desired that I would name it to him. My reply was, that I was satisfied that Gen. Jackson would say nothing on the subject. Mr. B. then remarked: 'Well, if he will merely say he will not retain Mr. Adams, that will answer.' I replied, I was satisfied, Gen. Jackson would neither say who should, or who should not, be secretary of state; but that he, (Mr. B.,) knew him well, and might talk with him as well as I could. Mr. Buchanan then said, that on the next day, before the general went to the house, he would call. He did so, as I afterwards understood."

Having in his letter spoken of Mr. Markley as "the negotiator" of the bargain, Mr. M., on the 30th of October, replied to Mr. Eaton. He said he was called on the latter end of December, 1824, by Mr. Buchanan, who expressed "great solicitude for the election of Gen. Jackson," and "adverted to the rumors which were afloat, that the friends of Mr. Adams were holding out the idea, that in case he should be elected, Mr. Clay would probably be offered the situation of secretary of state; and that if Gen. Jackson was elected, he would appoint or continue Mr. Adams. I told Mr. Buchanan I thought such a report was calculated to do the general a great deal of injury: and if it were not well founded, it ought to be contradicted; and mentioned farther, that there was great plausibility in such reports, and that their receiving credit, particularly that which represented Gen. Jackson as having determined, if he should be elected, that he would continue Mr. Adams as secretary of state; as Mr. Adams had been one of his ablest defenders and advocates in his report sustaining Gen. Jackson against the charges which were preferred against him for his conduct in relation to the Seminole war.

"Mr. Buchanan also asked if I had seen Mr. Clay, and whether I had had any conversation with him touching the presidential election. I replied that I had seen him in the house, but had had no conversation with him on that subject, but said I was anxious to get an opportunity to have a conversation with him, as I felt a great anxiety that he should vote with Pennsylvania. Mr. B. replied, that no one felt more anxious, for various reasons, than he did himself; that it was important, not only as it regarded the success of Gen. Jackson's election, that Mr. Clay should

go with Pennsylvania, but on account of his ulterior political prospects, declaring that he (Mr. B.) hoped one day to see Mr. Clay president of the United States; and, that was another reason why he should like to see him secretary of state in case Gen. Jackson was elected; and that if he was certain that Mr. Clay's views were favorable to Gen. Jackson's election, he would take an opportunity of talking to the general on the subject, or to get Mr. Eaton to do so; that he thought by doing so, he would confer a particular benefit on his country; and that he could see nothing wrong in it."

Mr. Markley says, that, at the request of Mr. Buchanan, he agreed to call on Mr. Clay; but having no favorable opportunity of presenting this subject to him, he had not ascertained which candidate he would support. He says in his letter: "I have no recollection whatever of having urged Mr. B. to see Gen. Jackson, although I concurred in the propriety of his suggestion that he should call to see him; nor have I the faintest recollection of any thing being said about fighting Mr. Adams' friends with their own weapons. If any such expressions were used I am very certain it was not by me. From the recollection I have of the conversation to which Mr. B. has reference, in his letter to the public of the 8th of August last, my impressions are, that the object of his visit that evening, was to urge the propriety of my seeing Mr. Clay, and give him my views of the importance of identifying himself with Pennsylvania in support of Gen. Jackson. I entertained no doubt, that Mr. Buchanan was honestly determined, that no exertions on his part should be wanting, and that he felt confident he could speak with certainty as to the great mass of Gen. Jackson's friends, that in case of his election, they would press upon him the appointment of Mr. Clay as secretary of state.

"Mr. Buchanan concurred with me in opinion, that Pennsylvania would prefer Mr. Clay's appointment to that of any other person as secretary of state; and from the obligations the general was under to Pennsylvania, that he would go far to gratify her wishes; and that therefore he believed the general, if elected, would appoint Mr. Clay."

The controversy was continued by letters from several other gentlemen, but without essentially changing the aspect of the affair.

In December, 1827, Mr. Clay again appeared before the public in "An address containing certain testimonials in refutation of the charges against him, made by Gen. Andrew Jackson, touching the last presidential election." Mr. Clay presents the letters of twenty different members of congress, embracing all his friends from the western states who voted for Mr. Adams; and all concur in denying any knowledge of any overture or proposition of the kind mentioned by Gen. Jackson. And

as Mr. Clay's alleged concealment of his intention to vote for Mr. Adams, until within a few days of the election in the house of representatives, had often been mentioned as a ground for suspicion of a bargain, he adds the letters of several individuals, among whom are John J. Crittenden, James Barbour, and Gen. La Fayette, (then in this country,) showing that, to all of them, he had, at different times, extending back to an early day in October, declared either his preferences for Mr. Adams, as between him and Gen. Jackson, or his intention to vote for the former. Soon after, a letter to the same effect from Thomas H. Benton was published.

The only additional testimony we will add, are the declarations of Mr. Adams himself. A few days after the close of his official term, in answer to a letter from a committee appointed by a large meeting of citizens in the state of New Jersey, expressing their approval of his administration, and their regret that he had not been continued in office, Mr. Adams made this solemn asseveration: "Before you, my fellow-citizens, in the presence of our country, and of Heaven, I pronounce that charge totally unfounded." And again, on a subsequent occasion, a few years before his death, in an address to a large assembly of his fellow-citizens, he repeated, in substance, this solemn asseveration.

The views of Gen. Jackson on the protection of domestic industry, expressed in his letter to Dr. Coleman, in 1824, and his support, in the senate of the United States, of the tariff act of that year, had placed him, in the public estimation, among the advocates of a high protective tariff. The indications, however, of his receiving, at the approaching election, the almost unanimous support of the southern states, caused suspicion on the part of some of his northern friends, as to his policy on this subject, in case of his election.

In January, 1828, the senate of Indiana, after setting forth, in a preamble, that Gen. Jackson's friends in the western states advocated his election on the ground of his being friendly to internal improvements and to a tariff for the protection of American manufactures; and that in the southern states his election was advocated on account of his opposition to these measures; in order to ascertain his real sentiments, that they might vote understandingly at the next presidential election, the senate passed the following resolution:

"*Resolved*, That his excellency the governor be requested to address a respectful letter to general Andrew Jackson, inviting him to state explicitly, whether he favors that construction of the constitution which authorizes congress to appropriate money for making internal improvement in the several states; and whether he is in favor of such a system of protective duties for the benefit of American manufactures as will, in all

cases where the raw material, and the ability to manufacture it, exist in our country, secure the patronage to our own manufactures, to the exclusion of those of foreign countries; and whether, if elected president of the United States, he will, in his public capacity, recommend, foster, and support the American system."

This resolution was accordingly communicated by Gov. Ray, who received from the general the following letter :

"HERMITAGE, February 28, 1828.

"SIR : I have had the honor to receive your excellency's letter of the 30th ultimo, inclosing resolutions of the senate of Indiana, adopted, as it appears, with a view of ascertaining my opinions on certain political topics. The respect which I entertain for the executive and senate of your state, excludes from my mind the idea that an unfriendly disposition dictated the interrogatories which are proposed. But I will confess my regret at being forced, by this sentiment, to depart, in the smallest degree, from the determination on which I have always acted. Not, sir, that I would wish to conceal my opinions from the people upon any political or national subjects; but as they were in various ways promulgated in 1824, I am apprehensive that my appearance before the public, at this time, may be attributed, as has already been the case, to improper motives.

"With these remarks, I pray you, sir, respectfully to state to the senate of Indiana, that my opinions, *at present*, are precisely what they were in 1823 and '24, when they were communicated, by letter, to Dr. Coleman, of North Carolina, and when I voted for the present tariff and appropriations for internal improvement. As that letter was written at a time when the divisions of sentiment on this subject were as strongly marked as they now are, in relation both to the expediency and constitutionality of the system, it is inclosed herein; and I beg the favor of your excellency to consider it a part of this communication. The occasion out of which it arose, was embraced with a hope of preventing any doubt, misconception, or any further inquiry respecting my opinion on the subjects to which you refer—particularly in those states which you have designated as cherishing a policy at variance with your own. To preserve our invaluable constitution, and to be prepared to repel the invasions of a foreign foe, by the practice of economy, and the cultivation, *within ourselves*, of the means of national defense and independence, should be, it seems to me, the leading objects of any system that aspires to the name of 'American,' and of every prudent administration of our government.

"I trust, sir, that these general views, taken in connection with the

letter inclosed, and the votes referred to, will be received as a sufficient answer to the inquiries suggested by the resolutions of the senate. I will further observe to your excellency, that my views of constitutional power and American policy, were imbibed, in no small degree, in the times and from the sages of the revolution; and that my experience has not disposed me to forget their lessons: and, in conclusion, I will repeat, that my opinions remain as they existed in 1823 and '4, uninfluenced by the hopes of personal aggrandizement; and that I am sure they will never deprive me of the proud satisfaction of having always been a sincere and consistent republican.

"I have the honor to be, very respectfully, your most obedient servant,
ANDREW JACKSON."

The letter to Dr. Coleman was written when he was the first time a candidate for the presidency, and dated at Washington, April 26, 1824. It was published in the Raleigh (N. C.) Star. As this letter is often referred to in order to show the opinions of Gen. Jackson on the much controverted questions to which it relates, and as his political opinions were, and still are held in high estimation by a large portion of the American people, it is deemed proper to insert here copious extracts from the letter:

"You ask my opinion on the tariff. I answer, that I am in favor of a judicious examination and revision of it, and so far as the tariff bill before us embraces the design of fostering, protecting, and preserving within ourselves the means of national defense and independence, particularly in a state of war, I would advocate and support it. The experience of the late war ought to teach us a lesson, and one never to be forgotten. If our liberty and republican form of government, procured for us by our revolutionary fathers, are worth the blood and treasure at which they were obtained, it surely is our duty to protect and defend them. * * * Heaven smiled upon, and gave us liberty and independence. That same Providence has blessed us with the means of national independence and national defense. If we omit or refuse to use the gifts which he has extended to us, we deserve not the continuation of his blessings. He has filled our mountains and our plains with minerals—with lead, iron, and copper; and given us climate and soil for the growing of hemp and wool. These being the grand materials of our national defense, they ought to have extended to them adequate and fair protection, that our own manufactories and laborers may be placed on a fair competition with those of Europe, and that we may have, within our country, a supply of those leading and important articles, so essential in

war. * * * This tariff—I mean a judicious one—possesses more fanciful than real danger. I will ask, what is the real situation of the agriculturalist? Where has the American farmer a market for his surplus products? Except for cotton, he has neither a foreign or home market. Does not this clearly prove, when there is no market either at home or abroad, that there is too much labor employed in agriculture; and that the channels for labor should be multiplied? Common sense, at once, points out the remedy. Draw from agriculture this superabundant labor; employ it in mechanism and manufactures; thereby creating a home market for your bread stuffs, and distributing labor to the most profitable account; and benefits to the country will result. Take from agriculture in the United States, six hundred thousand men, women and children, and you will at once give a home market for more bread stuffs than all Europe now furnishes us. In short, sir, we have been too long subject to the policy of the British merchants. It is time that we should become a little more *Americanized*; and, instead of feeding the paupers and laborers of England, feed our own; or else, in a short time, by continuing our present policy, we shall all be rendered paupers ourselves.

"It is, therefore, my opinion, that a careful and judicious tariff is much wanted, to pay our national debt, and afford us the means of that defense within ourselves, on which the safety of our country and liberty depends; and last, though not least, give a proper distribution to our labor, which must prove beneficial to the happiness, independence and wealth of the community.

"This is a short outline of my opinions, generally, on the subject of your inquiry; and believing them correct, and calculated to further the prosperity and happiness of my country, I declare to you, I would not barter them for any office or situation of a temporal character, that could be given me."

These sentiments were, in 1828, common to very large majorities in the eastern, middle, and western states; and but for the declarations of Gen. Jackson on the subject, he would probably have failed of an election.

CHAPTER XXXI.

THE "WOOLENS BILL."—HARRISBURG CONVENTION.—TARIFF OF 1828.

At an early period of the session of 1826–27, a bill was introduced proposing to increase the duty on wool and woollen manufactures. Immediately after the passage of the act of 1824, the English prosecu-

ted their business with unusual activity, and flooded our country with their fabrics, which were sold to great profit. Anticipating sufficient protection from that act, and encouraged by the success of British manufacturers, large investments were made by our citizens in manufactories. The quantity of British goods imported having vastly exceeded the demand, they had been disposed of by forced sales in this country, at a great sacrifice to the foreign manufacturer, and to the very serious embarrassment of the domestic manufacture. Against such a state of things, the latter had no protection; and memorials on the subject, and petitions for relief, were addressed to congress.

The inadequacy of the duties consisted in their nature, and in the manner in which they were determined. Being *ad valorem* duties, or duties laid according to the value of the article, the goods were invoiced at prices below their real value even in England. By this means, the revenue was defrauded, and protection to our manufacturers was defeated. It was the policy of the British manufacturers, after supplying other markets, to throw their remaining surplus into our markets, to be sold at such prices as could be obtained. And although these prices were sometimes below cost, the loss was more than compensated by the depression of American manufactures, which was to the English manufacturer an object of great importance.

By the tariff of 1824, the duty on imported woolen goods had been raised 8 per cent., and on wool, 15 per cent. No wool was exported hence to Europe; but more than one-third of the quantity manufactured here was imported from European countries, subject to a duty of 30 per cent., while the manufacturer enjoyed a mere nominal protection of 33 1-3 per cent. *ad valorem*; the duty being virtually determined by the party paying it. It was not to be expected that, in a large manufacturing country like England, the products of labor would be measured by the exact extent of the demand. The surplus was sent to the United States. By the removal of this surplus from the home market, the English manufacturers had been enabled to maintain high prices on the residue, while the value of all similar goods had been reduced to the injury of the American manufacturer.

The manufacturers, however, did not ask either for a reduction or an increase of the duty on wool. Nor did they ask for an increase of the *ad valorem* duty on woolen goods, if regulations existed which should effectually prevent the evasion of the laws. This could be effected only by changing the mode of determining the *ad valorem* duty, or by adopting a *minimum* duty, which it was impossible to evade. In many large establishments in New England, half the machinery was said to be idle; and some which had been completed was not to be put into operation until it could be done under more favorable auspices.

On the 27th of January, 1827, Mr. Mallary, of Vermont, chairman of the committee on manufactures, reported a bill "for the alteration of the acts imposing duties on imports," commonly called the "woolens bill." This bill proposed no change in the nominal rate of duty on woolen manufactures, which was 33 1-3 per cent. *ad valorem*; but it provided for estimating the duties on what was called the "minimum" principle.

Goods manufactured in whole or in part of wool, and not exceeding in value 40 cents the square yard at the place whence imported, must be deemed to have cost 40 cents, and charged with the present rate of duty. If the value exceeded 40 cents, and did not exceed \$2 50, they must be deemed to have cost \$2 50, and charged accordingly; and if they exceeded \$2 50, they must be deemed to have cost \$4, and charged accordingly.

Unmanufactured wool, then subject to a duty of 30 per cent., was to be charged, after June, 1828, 35 per cent., and after June, 1829, 40 per cent. And all wool exceeding in value 10 cents, and not exceeding 40 cents per pound, was to be deemed to have cost 40 cents, and to be subject to these rates of duty. Wool less in value than 10 cents, was, by the act of 1824, 15 per cent., on which no alteration was proposed.

The division of the house upon this measure was rather of a geographical than of a party character. A large portion of the friends of Gen. Jackson in the northern states, were decided protectionists, among whom were M'Lane, of Delaware, and Buchanan and Ingham, of Pennsylvania. These, gentlemen, however, as well as some of the friends of the administration, were opposed to certain provisions of the bill. As the principal cause of the complaint of the manufacturers was alleged to be the evasion of the duties contemplated by the act of 1824, so high a duty as some goods would necessarily be subject to, under the bill, was not called for. The scale of minimums was not sufficiently graduated: the "strides were too gigantic;" especially that from 40 cents to \$2 50. A large proportion of goods ranging between these prices would be prohibited; and they were of the grade usually consumed by the laboring classes. And this prohibition would diminish the revenue. Goods, for example, of a grade costing 50 cents, would be subject, if imported, to the same duty as those entered at \$2 50, viz.: 83 cts. Few goods worth less than \$2 would be imported.

At an early period of the discussion, therefore, an amendment was offered, proposing to moderate the scale of minimum valuation, by inserting a minimum of \$1 50 between those of 40 cents and \$2 50. The friends of the bill as first reported, contended that this amendment would in a great measure, defeat the object aimed at. A great part of

the goods imported came within the range of \$2; and the amount excluded, if this minimum should be adopted, would not be an equivalent for the evasion of duty on those admitted.

Mr. Mallary said the bill would not affect the revenue as was apprehended. The importations would not be essentially diminished. Foreign manufacturers would only be compelled to change the quality of their cloths with reference to these minimums. Instead of sending goods of all grades of prices, they would send but the three grades of 40 cents, \$2 50, and \$4, or nearly these prices. Some would come in at prices between \$3 and \$4, and even below \$3, and be rated on the minimum of \$4. Upon the lower grades the bill would operate more powerfully, as it was designed to do. And although some of these should be excluded, machinery was ready, and standing still, sufficient to supply all parts of the country in ninety days; so that there was no ground for apprehending a monopoly.

There was another mode of evading duties. Goods worth \$4 the square yard were imported in an unfinished state, invoiced at less than \$2 50, sent to one of the foreign finishing establishments, and, at a very small expense, transformed into cloths worth \$4. The bill would leave but three points for the appraisers to regard, instead of the hundred, as under existing regulations, and insure the collection of the duties. Thus would the revenue be guarded against fraud, protection secured to the domestic manufacturer, and employment given to the sixty millions of capital invested, and many thousands of industrious citizens.

The amendment, however, introducing the additional minimum of \$1 50, was adopted by a vote of 82 to 30.

Among those who took an active part in the debate on this bill, were Messrs. Mallary, of Vermont, Dwight and Davis, of Massachusetts, Pearce, of Rhode Island, Bartlett, of New Hampshire, Stewart, of Pennsylvania, Barney, of Maryland, and Storrs, of New York, in favor of the bill; and Messrs. M'Lane, of Delaware, Ingham and Buchanan, of Pennsylvania, Cambreleng, of New York, Hamilton and Mitchell, of South Carolina, Stevenson, of Virginia, Bryan, of North Carolina, and Wickliffe, of Kentucky, against it.

The necessity of adopting some regulation to enforce the collection of duties, was generally admitted; and, with a view to this object, several amendments were proposed by the opponents of the bill as substitutes for the minimum provision, but without success.

Mr. M'Lane admitted that the woolen manufacture was suffering a severe depression, the cause of which, he said, was well known. The act of 1824 had induced large investments of capital in this branch of manufacture; and double the usual quantity of domestic woollens had

been thrown into the American market. At the same time, the opening of the trade of the South American states had led the British manufacturers largely to increase their capital to supply that market. Having overestimated the demand, and having been met there by a successful competition on the part of our manufacturers, they soon found themselves in possession of a large surplus, which they sent to this country to be sold at almost any price it would bring. The flourishing state of the woolen manufacture, soon after the passage of the act of 1824, proved the sufficiency of that act as a measure of protection, if its intentions were fulfilled. And he was willing to go to the full extent of it, by substituting a specific for an *ad valorem* duty.

The principle of protection also was to some extent discussed. Mr. Stewart, of Pennsylvania, supported the bill from its supposed benefits to agriculture; and he regretted to find himself in opposition to two of his most distinguished colleagues, (Buchanan and Ingham,) with whom he had coöperated in support of the tariff of 1824; which, in his judgment, was not more important to the agricultural interest of Pennsylvania than the bill under consideration. This bill would create a home market for our farmers, which no changes in Europe could affect, and prevent the importation of foreign agricultural produce to the neglect of our own. "For," said Mr. S., "what is the importation of cloth but the importation of agricultural produce? Is not cloth the product of agriculture? Analyse it; resolve it into its constituent elements, and what is it? *Wool* and *labor*. What produces the wool? Grass and grain. And what supports labor, but bread and meat? Cloth is composed of the grass and grain that feed the sheep, and the bread and meat that support the laborer who converts the wool into cloth. And is it policy for this country, where seven-eighths of the population are agriculturists, to import annually ten millions of dollars' worth of grass and grain, and bread and meat, converted into cloth?"

"That the importation of cloth is the importation of agricultural produce, may be regarded as a novel doctrine; and to assert that thousands of tons of grass and corn are annually transported from Ohio and Kentucky to the Atlantic markets, would be considered no less strange; but it was not less true. It is transported, not in its original shape, but like the cloth, in a changed and modified condition. It is animated—converted into live stock, cattle and horses. Each of these animals carries five or six tons of hay, and fifty or one hundred bushels of corn for consumption to the markets of the east, which it is the policy of this bill to sustain and to increase. Hence, it is a bill for the benefit of agriculture. There is no foundation for the objection that it will tax the farmer and ruin agriculture. This argument has been urged a thousand

times against this policy. It was urged against the minimum of twenty five cents per yard, imposed by the tariff of 1816, upon cotton. What has been the effect of that minimum duty upon cotton? It afforded effectual protection in that case as it would in this. It has established the manufacture in this country; and has it taxed the farmer? No; it has furnished the country a better fabric for one-half the sum it cost before. Nor is this all: it has supplied a home market to the southern planter for 180,000 bales of cotton, worth \$7,000,000. And this market is not only permanent but increasing; thus verifying every anticipation of its friends, and affording a most triumphant refutation of every objection urged by its enemies. It has furnished facts and experience in opposition to speculation and theory. And similar effects will result from a similar policy in regard to wool."

In speaking of the advantage of protection to manufactures in creating a home market, Mr. Stewart said, that already the New England states had imported, in a single year, 629,000 barrels of flour from the agricultural states for consumption in their manufacturing establishments, while all Europe had taken less than 57,000 barrels. The tendency of this policy was also, not to create, but to prevent monopolies, and benefit the farmer. It would increase the number of woolen establishments and the quantity of manufactured articles; and this increased competition would reduce the price of the manufactured fabrics, while the increased demand for the raw material and breadstuffs would as certainly enhance the value of these articles of agricultural produce.

In illustrating this argument, Mr. S. referred to the woolen establishment at Steubenville, which consumed annually 50,000 dollars worth of the agricultural produce of the surrounding country. Now if, by rejecting this bill, that establishment should be destroyed, what would be the effect on the farmers? It would not only destroy this market, but increase the quantity of agricultural produce, by converting customers into rivals—consumers into producers of agricultural products. But suppose that, by passing the bill, two or three other establishments should be put into operation in that place, which he stated from personal knowledge would be done; would this impose a tax on the farmer for the benefit of the manufacturer? Would this create monopolies? Precisely the reverse.

He also controverted the idea that the encouragement of manufactures was injurious to commerce. He held it to be a sound political axiom, that the prosperity of commerce would always be in proportion to the prosperity of agriculture and manufactures. Commerce was properly called the handmaid of agriculture and manufactures. Her legitimate office was to carry and exchange the surplus productions of one country for

the money or surplus productions of another. Destroy agriculture and manufactures and commerce would be destroyed.

Nor would this measure diminish the revenue. If less cloth should be imported, the importation of other articles would be increased. The best plan to increase the revenue, was to increase the prosperity of the country—to increase its ability to purchase and consume foreign productions. He illustrated this by again referring to the establishment at Steubenville, where there were annually consumed imported goods to the value of \$30,000, on which were paid duties to the amount of \$10,000.

Mr. Buchanan said he had ever been the friend of what had been called the tariff policy; and that the new doctrines of political economy preached in England had no charms for him. They had never been practiced by British statesmen; and there was much reason to believe they had been manufactured, not for home consumption, but for foreign markets. [The doctrines alluded to by Mr. B. were those of free trade, by the profession of which Great Britain might influence other nations to adopt the policy, while she in practice rejected it.]

But while he made this avowal of his opinion, he was not ready to go to any length manufacturers might desire, in prohibiting the importation of foreign goods. Other interests had equal claims to protection. He admitted the depressed condition of the woolen manufacture, and the necessity of extending to it additional protection. One principal cause of this depression was, that, since the passage of our tariff of 1824, the British government had reduced the duty on the importation of foreign wool, from six pence sterling to a penny sterling per pound. By this decrease of duty on the raw material, the cost of the manufactured article had been diminished, and enabled the English manufacturer to compete with the American manufacturer in our market, with greater advantage than formerly. This cause was permanent in its nature, and would continue, until removed by legislation. The other cause—that of throwing upon us the surplus of British goods designed for the South American market—was an evil which would soon cure itself. Such fluctuations in trade could not be controlled by legislative provision. What he was now willing to do, was to give the protection fully and fairly intended by the tariff of 1824. The government was pledged to continue this protection. But our manufacturers had in a measure lost it, in consequence of the act of parliament which enabled their foreign competitors to manufacture cheaper than they could do in 1824. He was willing, therefore, to increase the rates of duty sufficiently to countervail the reduction of the British duty on foreign wool; but he would go no farther.

Mr. Archer, of Virginia, said the strong ground for supporting this bill had been stated by a gentleman from Massachusetts, (Mr. Davis,) who spoke some days ago. It was, that the recent reduction of the British duty on the import of wool, had in effect taken away a part of the protection which the existing rates of duty were intended to afford; and it was estimated that sixteen per cent. increase was necessary to compensate for the disadvantage thus occasioned to the American manufacturer. This argument amounted, in principle, to this, that the discharge of a foreign tax, was a sufficient reason for our adopting it. We were asked to put on our importation and consumption a new charge equal to the reduction of the British duty on imported wool, for the farther protection of the manufacturers.

Of the distress of the manufacturing interest he had no doubt. It had recently received the aid of a tariff; and the administering of this stimulus was always attended with distress. An excess of employment had been attracted to the favored pursuits; and the market had become overstocked with their products. Whatever might be the enlargement of a market given by a tariff, it would be glutted, and distress would follow. The present distress of the manufacturers, caused or aggravated by the tariff of 1824, was therefore a reason, not for, but against this form of relief, which would in the end produce a wider and more aggravated suffering.

The only argument by which protection to any particular interest, at the public expense, could be vindicated in justice, did not apply in the present case. It was, that the protection would redeem itself—that the article would eventually be rendered cheaper by the tax. No one would defend a tax merely to favor a particular interest, if there were no expectation that the public would be indemnified. Such it had been said, was the result of protection in the case of coarse cottons. But was it so? It was true that they were lower than they were when the duty was imposed; but were they lower than they would have been if they had been left without protection? If they were as cheap as we could be supplied with the foreign article, why not repeal the tax? To this the manufacturers would not consent. For this reason, he did not believe that we did or could successfully compete with others in foreign markets.

But even if it were true in relation to coarse cottons, it would not be so in regard to woollens. In the manufacture of these, a smaller proportion of the labor was performed by machinery; and the manual labor required was of a more experienced and expensive kind. And for another reason: the cost of the raw material entered more largely into the prices of woollens, than into those of cottons. And wool raised at home must always be much higher than that which could be obtained from abroad. Our country was not so favorable for raising sheep as Eng-

land and other countries. This disadvantage of the greater cost of the raw material could never be avoided, and, taken in connection with the larger proportion of labor required in woollen as compared with cotton goods, was decisive as to the relative cost of the domestic and the foreign fabric. With us, woolens must be a forced fabric, and could never be made as cheap as they could be imported.

A farther argument in favor of the bill was the enlarged market which the extension of the manufacture was expected to produce. This also Mr. A. denied. There would be no enlargement of the market—no addition to the amount or value of sales—no augmentation of the quantity, or enhancement of the prices of the products of other branches of industry. Market could be obtained only in the proportion in which it was given. By purchasing at the north what had been heretofore obtained abroad, was surrendering, to just that amount, our present market abroad. It would be merely a transfer of market; for what would be added to the domestic, would be deducted from the foreign market. Markets in the immediate neighborhood of manufactories would be improved by their extension: and this had been confounded with a general improvement of the market. The market of the country would, in fact, suffer; for the whole value of the national exchanges would be reduced in an amount equal to the tax imposed by the bill.

It had been said, that the revenue would not be diminished. If our money was taken, our understandings ought not to be insulted. On such an argument, he declined comment. And when the revenue had suffered reduction, the resource would be imposts on other imports.

Much had been heard of the extension of protection to other interests than the manufacturing. How could navigation and commerce be said to be protected when we were holding out a permanent invitation to the removal of all discriminating duties? By the removal of duties on foreign shipping, our navigation had not been impaired. Scarcely more necessary were duties for the protection of agriculture. Of this, the proof was found in the readiness of our agriculturists to concur in the removal of the protective duties. They not only did not ask, they renounced protection, and were willing to annul every duty which wore the semblance of this character. The benefits of the proposed measure would be confined to a small number of persons—capitalists, who had experienced a diminished rate of profits from their business.

But we are not allowed to extend the remarks of speakers on this bill. So far as they embraced the general subject of protection, they do not essentially differ from those which will be found in the debates on the tariff bills of 1824 and 1828, in other parts of this work.

On the 10th of February, the bill passed the house, 106 to 95, and was sent to the senate, where, for the want of time to act upon it at

that session, it was laid upon the table, February 28, by the casting vote of the vice-president.

Disappointed in their expectations by the defeat of the "woolens bill," the manufacturers early resolved on a renewal of their application to congress for relief. At a meeting of the "Pennsylvania society for the promotion of manufactures and the mechanic arts," held on the 14th of May, 1827, Charles J. Ingersoll presiding, in view of "the depressed state of the woolen manufacture, and of the market for wool, together with its injurious effect on other departments of industry, and on the general welfare," resolutions were adopted calling on the farmers and manufacturers, and the friends of both branches of industry, to hold conventions in their respective states, and to appoint at least five delegates from each state, to meet in general convention at Harrisburg, on the 30th day of July, to deliberate on measures proper to be taken in the present posture of their affairs, and appointing a committee of twenty-seven, to frame an address to the citizens of the United States.

In their address, the committee discussed the policy of protection, and set forth the causes of the depression of the manufacturing interest, and the effect of this depression upon the other great interests of the country. Above 80 per cent. of the population was engaged in the pursuits of agriculture; and for the large surplus of the produce of the soil, there was no market at home or abroad. The want of a market operated severely upon the middle and western states. Europe no longer wanted their grain and flour, and her ports were closed against them, while these states consumed of the manufactures of Europe to the amount of \$10,000,000 or \$12,000,000 in value annually.

To show the effects of the closing of the European ports against our bread-stuffs, the amount of our exports of bread-stuffs during the year 1825, were compared with the amount exported while our wheat and flour had a foreign demand. It appeared that, while our population had nearly trebled since 1796, the exports of all the articles produced, exclusive of cotton and tobacco, had diminished nearly one-third. The arguments presented by the committee in favor of the desired protection and of the general policy, were substantially the same as those offered in previous discussions of the same subject.

In pursuance of the call of the "Pennsylvania society for the promotion of manufactures," &c., state conventions were held, and delegates appointed to the national convention at Harrisburg. From the proceedings of these state conventions, and the names of the persons who participated in them, there seems to have been greater unanimity at that time among the people of the northern states on the subject of the tariff than at a later period.

The New York state convention was held at Albany. Jesse Buel, of Albany, was president of the convention; and Edmund H. Pendleton, of Dutchess, and David E. Evans, of Genesee, were secretaries. From the published proceedings it appears, that "the convention was addressed by Col. Young, of Saratoga, Gen. Van Rensselaer, of Columbia, and other gentlemen, in support of the purposes for which it had assembled." Among the delegates appointed to the Harrisburg convention, were some of the most prominent citizens of the state, viz: Elcazer Lord Peter Sharp, Gen. James Tallmadge, Jacob R. Van Rensselaer, Samuel M. Hopkins, Samuel Young, John B. Yates, Alvan Stewart, Victory Birdseye, Enos T. Throop, Francis Granger, Philip Church, and several others, together with the officers of the convention.

A long series of resolutions was adopted, of which we copy the following as expressive of the common sentiments of the people, at that period, of the different political parties in the northern portion of the union:

Resolved, That agriculture, manufactures and commerce, are social pursuits, and flourish best in the society of each other; and that equal protection by the government is due to each.

"*Resolved*, That as wool and the woollen trade were the principal foundation of the prosperity, first of the Netherlands, and afterwards of England; so the people of the northern and middle states ought to look to the same article as an unfailing source of wealth to their agricultural, manufacturing, and commercial interests.

"*Resolved*, That, inasmuch as the staple agricultural products of the south, to wit, cotton, tobacco, and rice, are admitted into the ports of Europe without competition in their production in that part of the world; and while both competition and prohibitory laws operate to exclude from European markets the breadstuffs, provisions, and manufactures of the northern, middle and western states, we deem it unkind in our southern brethren to oppose the passage of laws which are calculated to create a home market for our agricultural productions, and to promote our national wealth and prosperity."

There were in the national convention at Harrisburg, 95 delegates from the following states: New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Kentucky, and Ohio. JOSEPH RITNER, of Pennsylvania, was chosen president; JESSE BUEL, of New York, and FRISBY TILGHMAN, of Maryland, vice-presidents; and WILLIAM HALSTED, Jun, of New Jersey, and REDWOOD FISHER, of Pennsylvania, secretaries.

Committees upon the several most important branches of manufacture

were appointed, and a committee to draft a memorial to congress: also a committee to prepare an address to the people of the United States. The reports of the different committees form a large volume, embracing a great amount and variety of facts and statistics which were not only in themselves interesting, but useful to the political economist and the statesman. The memorial and petition to congress contained the project of a tariff of duties upon raw wool and the different kinds and qualities of woollen manufactures, for the consideration of congress. An increase of duty on other articles of manufacture was also recommended.

The subject of a general revision of the tariff was again brought before congress, on the 31st of December, 1827; and a resolution was adopted authorizing the committee on manufactures to send for persons and papers. The object of granting this power was to enable the committee to ascertain and report such facts as might be useful in guiding the judgment of the house. On the 31st of January, 1828, the committee made a report, accompanied by a bill "in alteration of the several acts imposing duties on imports;" and the debate on the same commenced the 3d of March, and terminated on the 22d of April.

The committee stated in their report, that, from the evidence relating to the woollen manufacture, the following facts appeared: (1.) This interest was laboring under severe depressions. (2.) These depressions were caused, in a great degree, by excessive and irregular importations, and the consequent fluctuation in price. (3.) The prices of wool in England were nearly fifty per cent. less than in this country. (4.) The cost of our wool in most cloths was about one-half of the cost of the fabric. (5.) At the same cost of wool and foreign dying materials, the manufactured article could be afforded as cheap in this country as in England. (6.) The present duty was insufficient; and to render any reasonable duty effectual, it must be specific instead of *ad valorem*.

The committee reported the scale of minimums adopted by the house in the "woolens bill" at the preceding session, except that the minimum \$1 50 was reduced to \$1; and a specific duty was proposed as follows: On cloths falling under the minimum of 50 cents, a duty of 16 cents the square yard; under that of \$1, a duty of 40 cents; under that of \$2 50, a duty of \$1; and under that of \$4, a duty of 40 per cent. *ad valorem*. And a provision was added, charging cloths exceeding \$4 in value, an *ad valorem* duty of 45 per cent. The committee also reported a modification of the tariff generally.

The debate embraced the usual variety of topics. Most of the former arguments on the constitutionality and the general effects of the protective system, were reproduced; and the most opposite opinions were expressed as to the operation of the proposed measure.

Mr. Mallary, chairman of the committee, dissented from the majority on some of the provisions of the bill, especially those relating to wool and woollens, and moved an amendment adopting substantially the provisions of the woollens bill of the last session. He expressed his views upon the general subject of protection, and upon the merits of the bill. The duty on wool, as proposed by the committee's bill, he deemed highly objectionable. By the act of 1824, the coarse wool from South America, costing 10 cents a pound at the place whence it was imported, was subject to a duty of 15 per cent. As this grade of wool was not grown in this country, a higher rate of duty would have raised the price of the cloth, without essentially benefiting the wool grower. On all other wool, the duty was 20 per cent., to be increased 5 per cent. every year, until it should have reached 50 per cent. By the present bill, all kinds of wool were to be charged 7 cents a pound, and in addition, an *ad valorem* duty of 40 per cent., to be increased to 50 per cent. Since the passage of the act of 1824, manufactories had been built expressly for working this kind of raw material into negro cloths, inferior baizes and flannel, used by the poorer classes; and the foreign fabric had been almost entirely excluded. The effect of the proposed duty would be to drive the manufacture out of the country.

Another objection to the bill was, that the duties on the raw material were too high in comparison with those on the manufactured article. If the country did not furnish an adequate supply, the deficiency must be made up by importation; and if the wool unmanufactured were met by too high a duty, it would come in the manufactured state. It was feared that the effect of the bill would be the separation of the wool grower from the manufacturer. Their interests were united. The prosperity of the one was dependent upon that of the other. The manufacturer, relying upon a foreign market for wool, might prosper under a high duty on *cloth*; but the wool grower was dependent for success upon the manufacturer. Hence, a system of duties which should operate so adversely upon the latter as to prevent or destroy the domestic market for wool, would be equally detrimental to the former, whatever might be the duty on foreign wool.

Calculations were made to show that the bill was less favorable to both the manufacturer and the wool grower, than the tariff of 1824. The manufacturer of the coarse fabric, being dependent on the foreign article for supplies of the raw material, would be ruined; as the American farmer can not afford to grow the coarse wool, worth only eight to twelve cents a pound, instead of that of a quality which would command thirty-five to fifty cents. The foreigner would take the wool which we prohibited, and furnish the fabric, the manufacture of which the American

must abandon. And by throwing the manufacture out of the country, the effects of domestic competition would be lost; and the duty would in reality be a tax on the consumer.

On the other hand, it was calculated with equal confidence, that the bill would operate equally and favorably upon all classes whose interests were involved in it. The necessity of increasing the duty on coarse wool arose from the fact of its coming in very dirty, losing nearly half its weight in cleaning. But when cleaned, its quality approached so nearly the cheapest grades of domestic wool as to affect them in the market. The specific duty of 7 cents would compel the merchant or manufacturer to import only the cleanest wool. The duty proposed, without greatly advancing the price, would, by checking the importation, create a demand on the American farmer for coarse wool. It was attempted to be shown by arithmetical calculation, that the woollen manufacturer would derive additional protection from the proposed arrangement.

The late repeal, by Great Britain, of the duty on wool, had been alleged, by our manufacturers, to be one of the means which enabled the British to undersell them, and been offered as a reason for additional protection. The facts were said to be these: Great Britain had for two hundred years prohibited, under severe penalties, the exportation of sheep or wool, and allowed the importation at a duty of one cent a pound. The imports of wool from Spain and Germany having become so great in 1819, the wool growers demanded protection, or the privilege of exporting, if the manufacturer were permitted to import: and a duty of 6d (11 cents) a pound was laid upon wool imported. In 1824, this duty was repealed; and by the same law, the restriction upon the exportation was removed. How, it was asked, could this work injury to the manufacturer?

With respect to the duty on molasses also, the friends of protection were divided in opinion. The existing duty was 5 cents; that proposed by the bill 10 cents a gallon. The reasons for the increase were; (1.) The present duty was disproportionate to that on sugar; a gallon of molasses being equal, as a sweetening matter, to eight pounds of sugar, on which was paid a duty of 24 cents. (2.) Much of the article being used for distillation, it came into competition with the grain of the farmer, for whose protection the increase was necessary.

The increase was opposed, because, (1.) It was an article of general use among all classes of people, and of which this country could not furnish a supply. (2.) It would injure our trade with the West Indies. This was the only fair and reciprocal trade of great importance enjoyed by our citizens. The South Carolina doctrine was, "If a nation will not buy, it can not sell." It was equally true, that, if a nation can not sell, it

can not buy. Our annual exports thither amounted to \$16,000,000 to \$18,000,000, consisting chiefly of the productions of the forest and fisheries. The state of Maine was extensively engaged in this trade. The timber in the forest was of little value. Nearly the whole of its eventual value was produced by its manufacture and transportation to its proper and only market. The lumber business gave employment to \$4,000,000 of capital, 14,000 men, and 10,000 yoke of oxen. Of equal or greater importance was the fishing interest. These being products of great bulk and burden, they required a large amount of shipping for their transportation. Molasses was the principal article to be had in exchange for lumber and fish : cash could not be procured for them.

Another effect of this high duty on molasses reported by the majority of the committee, it was feared, would be to exclude the poorer qualities, which were fit only for distillation, and, consequently, to advance the price in the West India market for the better qualities. Both were sold together ; and the better article could not be bought alone without paying a price which would compensate the seller for his loss on the poorer.

Spirits not being considered one of the necessities of life, the duty on foreign distilled spirits received no material opposition. So also in relation to the proposed duties on iron and the manufactures of iron, the friends of protection were nearly unanimous. The specific duty of 7 cents per pound on coarse wool having been reduced to 4 cents, and a few other provisions having been slightly altered, the bill was ordered to a third reading on the 15th of April.

The next day the bill was read the third time, and on the question of its passage, Mr. Randolph spoke at length in opposition, and concluded by moving its indefinite postponement. Upon this motion another debate arose, in which the merits of the bill and the general system of protection were again discussed. In this discussion, however, few took a part, except the opponents of the protective policy.

Among the advocates of the bill were Anderson, Buchanan, Forward, and Ingham, of Pennsylvania ; Bates, of Massachusetts ; Barnard, Martin Hoffman, Martindale, Strong and Wright, of New York ; Mallery, of Vermont ; Bates, of Massachusetts ; Ingersoll, of Connecticut ; Vinton and Wright, of Ohio. Of those who spoke in opposition, were Alexander, Gilmer, and Randolph, of Virginia ; Anderson and Sprague, of Maine ; Cambreleng, of New York ; Drayton, Hamilton, and M'Duffie, of South Carolina ; Turner, of North Carolina ; Thompson, of New Jersey ; Wickliffe, of Kentucky ; and Wilde, of Georgia.

The vote on the passage of the bill was taken on the 22d of April, and decided in the affirmative, 105 to 94.

The spirit of some of the opposing members was strikingly exhibited

on taking the question on the title of the bill, which was, "An act in alteration of the several acts imposing duties on imports."

Mr. Wilde moved to amend it by adding the words, "and for the encouragement of domestic manufactures."

Mr. Randolph opposed the motion, insisting that domestic manufactures were those which were carried on in the families of farmers, in the fabrication of what used to be called Virginia cloth; and that the bill, if it had its true name, should be called, a bill to rob and plunder nearly one-half of the union, for the benefit of the residue, &c. Let the friends of the bill christen their own child; he would not stand godfather to it. The title was merely *ad captandum vulgus*; like the words on the continental money, ridiculed in Smith's verses:

" *Libertas et natale solum,*

Fine words indeed! I wonder where you stole 'em."

The bill referred to manufactures of no sort or kind, but the manufacture of a president of the United States.

Mr. Wilde, after a brief reply, in which he assented to Mr. R.'s opinion of the bill, but thought the manufactures in the family ought to be called household manufactures, consented to withdraw his amendment.

Mr. Drayton then moved to amend the title as follows: strike out all after "An act," and insert, "to increase the duties upon certain imports, for the purpose of increasing the profits of certain manufacturers." After some general remarks on the injurious character of the bill, he stated that the main reason for his desiring to amend the title, was, that a decision might be had on its constitutionality, by an appeal to the supreme court of the United States, on some case which might arise under its operation. This could not be done if the title remained as it now stood. A declaration by the power which enacted the law, that it was intended for the protection of certain manufacturers, would bring up the constitutional question, whether congress could increase the duties on imports for such a purpose.

Mr. Hodges, of Massachusetts, moved to amend the amendment of Mr. Drayton, by adding to it as follows: "And to transfer the capital of the New England states to other states in the union."

Whereupon Mr. Bartlett moved the previous question on the title. The house sustained the call; the previous question was put and carried; and the main question having been put, as follows: "Shall this be the title of the bill?" it was carried without a division.

In the senate, the specific duties on cloths, as fixed by the house, were changed to *ad valorem* duties of 40 per cent., to be increased after June, 1829, to 45 per cent. With these and a few other amendments, the bill

was passed : and the amendments were afterward concurred in by the house.

Great excitement at the south, especially in South Carolina, was produced by the action of congress in 1827 and 1828, on the subject of protection. The popular indignation found vent through public meetings, legislatures, and the press, in terms of extreme violence. A faithful history of the times seems to require a record of some expressions of southern feeling and sentiment. With many it has been a question, whether the stand taken by the south on this subject was designed to frighten the people of the north from the position they had assumed, or whether it was induced by the belief that the protective policy really inflicted upon them the injury of which they so grievously complained.

A memorial to the state legislature was adopted by the citizens of Columbia and Richland, S. C., entreating that body to "save them, if possible, from the conjoined grasp of usurpation and poverty." They say: "We exist as a member of the union merely as an object of taxation. The northern and middle states are to be enriched by the plunder of the south." "The citizens of South Carolina will be condemned to work as the tributaries of the northern and middle sections of the union. It is so now; and it is triumphantly determined to extend the system indefinitely."

In their memorial to congress, they declare "that *congress possess no power* under the constitution to enact a system of protection"—"their honest earnings are legislated out of their pockets"—and the burdens imposed on them are "too heavy to be borne in silence any longer."

In an address to the people of South Carolina, the citizens of Colleton district say: "Your remonstrances and your implorations have been in vain; and a tariff bill has passed, not, indeed, such as you apprehended, but tenfold worse." "The question whether congress can constitutionally do this or not, excites neither solicitude nor alarm, and appears unworthy of inquiry. Power seems to be right; and our representatives sit in desponding silence, under the conviction, that their voices could as easily move the capitol from its basis, as shake the purpose of interested cupidity. They protest, indeed, before they receive the blow."

"What course is left for us to pursue? Our northern and western brethren are not, can not, be ignorant of the operation of the system they advocate, or of the powers they claim for the government. They full well know, because like us they must feel, that it lifts them to prosperity, while it sinks us into ruin. We have done by words all that words can do. To talk more must be a dastard's refuge.

"If we have the common pride of men, or the determination of freemen, we must resist the impositions of this tariff. * * * In advising

an attitude of open resistance to the laws of the union, we deem it due to the occasion, and that we may not be misunderstood, distinctly, but briefly to state, without argument, our constitutional faith. For it is not enough that imposts laid for the protection of manufactures are oppressive, and transfer millions of our property to northern capitalists. If we have given them our bond, let them take our blood. Those who resist these imposts must deem them *unconstitutional*; and the principle is abandoned by the payment of one cent, as much as ten millions."

Retaliatory measures were proposed. It was suggested by a citizen of South Carolina, in one of the papers, that the legislatures of the southern states prohibit the introduction of horses, mules, hogs, beef, cattle, bacon, and bagging, from Ohio, Kentucky, Tennessee, and Indiana; whiskey, beer, flour, cheese, &c., from New York and Pennsylvania; and also lay on these last named states "a municipal tax, amounting to prohibition, on all stock in trade, consisting of goods, wares, or merchandise, the produce of those states."

Another paper said: "The object of every agriculturist should be, in the first place, to devise means for the destruction of the manufacturing mania."

A Georgia paper called the tariff an "accursed chain to bind us victims to the idol mammon;" and said: "We must now turn ourselves to other means and other defenses, constitutional, indeed, but at the same time with spirit pushing resistance to the very bounds of the constitution. Let there be a wall raised between them and us; and let us say unto them as Abraham said unto Lot: 'Let there be no strife, &c. 'Separate thyself, I pray thee, from me: if thou wilt take the left hand, then I will go to the right; or if thou depart to the right hand, then I will go to the left.'

"Let us lay upon ourselves the injunction which was through Moses laid upon the Israelites: 'And thou shalt gather all the spoil of it into the midst of the street thereof, and shalt burn with fire the city and all the spoil thereof: and there shall cleave nought of the cursed thing to thine hand.'

"Let us govern ourselves by the advice of the apostle: 'Touch not, taste not, handle not, the unclean thing which is theirs.' And for this purpose we would recommend that a congress assemble from all the states opposed to a protecting tariff, in order to advise and recommend to the different legislatures and people, such measures, consistent with the constitution, as may seem best calculated to protect them from the operation of the tariff bill, and prevent the introduction and use of the tariffed articles in their respective states." [Note D.]

CHAPTER XXXII.

INTRODUCTION AND DISCUSSION OF RESOLUTIONS ON RETRENCHMENT AND REFORM.

MR. CHILTON, an opposition member from Kentucky, on the 22d of January, 1828, moved certain resolutions declaring the expediency of a speedy discharge of the national debt; and, in order to its accomplishment, the necessity of a general system of retrenchment; and instructing the committee of ways and means to report to the house what offices might be discontinued, and what salaries might be reduced, and such other means of retrenchment as to them might seem necessary.

These resolutions were the subject of daily debate until the 6th of February, when, after having been materially modified, they were referred to a select committee by a unanimous vote. Professing to concur in the principle of the resolutions, and to believe that the several departments of the government had been economically administered, the friends of the administration, although they considered the introduction of the resolutions as being intended for party effect, made no serious opposition to their reference. Reduction of expense in the departments of state, of the treasury, of the navy, of war, and of the post-office, were mentioned as particular objects of inquiry; as also the contingent funds of these departments, and the compensation of the members of congress. The debate was unusually discursive, embracing many topics having no relevancy to the general subject. It was marked by that strong party feeling which might be expected from speakers on one side who were fully bent on overthrowing the administration, and from those on the other, equally determined to sustain it.

The resolutions were founded upon alleged abuses and want of economy in the administration of the government. The specifications made by the mover were, that the *navy list* was crowded; at *West Point*, a large number of cadets had been educated at the public expense, who were without employment; a *fifth auditor* had been appointed for a time which had passed away, and his services were no longer necessary; there was an unnecessary number of clerks in most of the public offices; the contingent fund had been improperly used; many salaries might be reduced, and the reduction should begin with the compensation and mileage of members of congress; and there was an unnecessary expenditure for printed documents.

Although the speakers of the opposition party concurred in the

object of the resolutions, there were points upon which they were not entirely unanimous. Messrs. Buchanan, Randolph, and M'Duffie, though they believed in the necessity of reform, did not think the present a favorable time, nor the manner proposed a proper one, to effect the object. Mr. Buchanan also differed with Mr. Chilton in respect to the office of fifth auditor, whose duties had been doubled since the office was created. Several members of the opposition also opposed a reduction of their compensation. Mr. Chilton subsequently said the fifth auditor was not the one whose office he wished discontinued. He believed, however, there were too many auditors.

The importance of a speedy payment of the public debt was urged in favor of the measure. Mr. Daniel, of Kentucky, suggested that the savings made by retrenchment might be divided among the states, to be expended in making roads and canals. There were, he said, more than 9,000 officers employed in the various departments. He believed the office of *fourth* auditor was useless; and at least three of the auditors might be dispensed with. Laborers generally were required to work during the whole day, while the public officers attended in their offices only four or five hours, at extravagant salaries of \$1,000 to \$3,000. Let them perform a greater amount of labor, and their number might be greatly reduced.

Money, it was said, too, had been taken out of the treasury for wild and visionary projects. The operation of the government had not been confined to constitutional objects; but a new era had opened upon us, and we were about to feel the calamitous effects of the administration. The military academy at West Point was denounced as a monarchical institution, the benefits of which were confined to the sons of the rich and well-born. There were twenty young men, supernumerary 2d lieutenants, who had been educated at the public expense, and who were now supported at their own homes at an annual cost of \$15,000 annually.

Among the instances of the misapplication of money, was the appointment of Rufus King as minister to London, who was superannuated, and known to be incompetent to perform the duties of his mission; on account of which, we had lost the West India trade. Yet his mission had cost \$30,000 or \$40,000. Another minister (Mr. Gallatin) had been sent, who also had returned without having essentially benefitted the nation. It was alleged as an abuse, also, that our foreign ministers, in addition to their first year's salary of \$9,000, were paid an equal sum as an outfit. And it was mentioned as an abuse of the contingent fund of the state department, that John A. King, secretary of legation, who had been left by his father as *chargé d'affaires* at London, had been

paid a salary, or an outfit (4,500) and part of a salary, while he remained in England, in violation, it was believed, of a law of congress, which requires his appointment by the president and senate. John H Pleasants had been paid \$1,900 for carrying dispatches to one of our ministers in South America; but instead of performing his mission, he had sailed to Europe. The Panama mission had cost \$80,000 or \$100,000, and resulted in no great benefit. Mr. Daniel mentioned other things which he considered abuses, and said he believed that many of the offices under the government were mere sinecures, of no manner of good to the public, and ought to be abolished. And the president, he said, was responsible for the whole, whether these offices existed before he came into power or not. He ought to have examined into them, and if any of them could be dispensed with, he ought to have pointed them out in his message to congress.

Mr M'Duffie said he would neither inculpate nor exculpate the administration. He would say nothing that would have a bearing on the administration in one way or another. The question was not what the government had done—that was past—but this was a practical resolution, which had reference wholly to future reforms. Whether there were abuses or not—whether our ministers had been sent out too often, or changed without sufficient reason, were questions not involved in the resolution. Whether the Panama mission was expedient, or not, was not now before the house; that mission was at an end; why was it brought up here, and at this time? As bearing upon the administration these things had no business here.

In reference to the public debt, and the mode of its discharge, he said that subject was before the committee of ways and means; and he moved that so much of the resolution as referred to the public debt, be struck out. All the means which the country possessed of paying that debt, were by existing laws to be applied to that object; and no resolution would either hasten or retard its payment.

In the course of the debate the president was also censured for his having rewarded with office members of congress who had aided in his election. He was accused of having proclaimed doctrines in relation to the powers of the general government, incompatible with every notion of a limited constitution, the rights of the states, and the liberties of the people. And having, by a lawless construction, extended the powers of the government, he had threatened a sovereign state (Georgia) with the military force of the nation.

Gentlemen on the other side expressed their willingness to institute the inquiry proposed by the resolutions. Mr. Wright, of Ohio, said the subject was not a new one. The president, in his message in December

1826, had said: "It is well for us, however, to be admonished of the necessity of abiding by the maxims of the most vigilant economy, and of resorting to all honorable expedients, for pursuing, with steady and inflexible perseverance, the total discharge of the debt." And in the message of December, 1827, he says: "The deep solicitude felt by all classes throughout the union, for the total discharge of the public debt, will apologize for the earnestness with which I deem it my duty to urge this topic upon the consideration of congress, of recommending to them again the strictest economy in the application of the public funds."

Mr. Wright said he had, two years ago, proposed to amend the rules of the house, so as to authorize the raising of a standing committee on retrenchment, to ascertain abuses, and suggest measures of economy; and at the last session he had proposed an inquiry into the expenditure of the contingent fund of the house. If unnecessary offices existed, it was not to be charged to the administration, as no new offices had been created. Nor had they raised the salaries of any officers, except that of the postmaster-general; and this was demanded by the increasing business of his department.

The administration was declared to be desirous of paying the public debt. The \$10,000,000 annually reserved as a sinking fund, must inevitably pay the debt. The present administration had paid, not only the ten millions annually, but a part of the deficiencies of the preceding administration.

Of the 9,000 officers said to be employed in the various departments, it ought to have been stated, that between 7,000 and 8,000 were deputy postmasters.

The academy at West Point was defended by several members. It had been recommended by Washington, and established during the administration of Jefferson, and cherished by every subsequent administration. The number of cadets to be appointed, and the recommendation and selection of candidates for admission, were regulated by law, and not by the administration. It was true, there were not always vacancies in the army for the immediate employment of all the cadets; but they soon became merged in the register, and ceased to be supernumeraries. The academy was also defended by Mr. Buchanan, an opposition member, who considered an institution of this kind as the best plan of military instruction ever devised, and necessary as a means of providing for the common defense. The supply of officers, however, was too great for the demand of the army; or, if gentlemen pleased, the army was too small for the academy.

The mission to England, it was said, had been tendered to Gov Clinton, of New York, and by him declined, he having just been elected

governor. It was next offered to Mr. King, who, of all men in the nation, was generally acknowledged to be best qualified to settle the difficulties between the two countries: and the appointment was such as the senate approved. At the time of the appointment, his health was sufficient to transact the public business. But he became sick, and returned home, and soon after died. Mr. Gallatin was appointed as his successor. The mission had not been unsuccessful. A treaty had been effected, by which \$1,200,000 had been allowed us for slaves carried away during the last war; and by another treaty, the boundary line between the United States and the British colonies had been settled; thus terminating two long standing difficulties between the two countries.

In relation to the matter of John A. King, it was said, that, from an official report of the secretary of state made at the preceding session, in answer to a call from the house of representatives, it appeared to have been the uniform practice under preceding administrations, when a minister left a court before a successor arrived, to leave some one in charge of our diplomatic affairs; and the charge had, perhaps, always been devolved upon the secretary of legation. Nor did the compensation allowed Mr. King exceed the allowances in similar cases under former administrations.

John H. Pleasants had received, as bearer of dispatches, the usual sum, and no more. He embarked for South America, but was prevented by sickness from going the whole distance. He however employed a person to deliver the dispatches, and the service was satisfactorily performed.

The Panama mission, it was said, had received the sanction of both houses, and been approved by the nation. What would not have been said against the administration, if the invitation to attend the meeting had not been accepted? The administration was not responsible for the failure of the meeting.

In reply to the charge, that the West India trade had been lost by the diplomatic blunders of the administration, Mr. Bartlett, of New Hampshire, stated the facts to be as follows: When, during the administration of Mr. Monroe, this subject was under negotiation, our government insisted on having the same privileges in this trade as the British North American colonies. That was the question at the close of his term. So soon as that point could with decency be surrendered by his successor, it was given up. Then the British government insisted on regulating the business by reciprocal acts of legislation, which would have left our commerce to the caprice or interest of parliament, or even to the less formal annihilation by a decree in council. This annunciation was accompanied with the additional suggestion, that, if we should

legislate for such a purpose, they would not even hold out an encouragement that they would meet us in such compromise. Congress refused to act in that crisis, and left the president no alternative but to execute former existing laws. But subsequent negotiation had secured to us that trade upon a better foundation than any act of parliament would give it. Sweden had a treaty with Great Britain, securing reciprocal advantages of trade with her West India possessions: and by a treaty with Sweden, just published, we had secured a trade, on the most advantageous terms, to the island of St. Bartholomews. This gave us an indirect trade to the British islands, to which our trade had always been in articles of necessity to them. They must still have them, and pay for the indirectness of the trade, while their ships are excluded from the trade to this country, giving us both the outward and home freight.

Another charge of extravagant expenditure, had been founded upon a comparison of this administration with that of Mr. Jefferson, made by Mr. Rives, of Virginia, who considered three or four millions as the ordinary current expenses of Mr. Jefferson's administration, and the ordinary current expenses of the present, thirteen millions. Mr. Bartlett, by a different process of calculation, made the expenses of the former greater, and those of the latter less, than his opponent had done. A great change, too, in the condition of the country had taken place. At the former period, the house consisted of 140 members, now of 213. In the senate there were then 32, now 48. The expenses of the two branches was then \$164,526, now \$471,800. Our army, in 1802, consisting of 2,400 men, cost \$844,009; now it consisted of 6,000 men, and cost \$2,050,317. There had also been a corresponding increase of the navy, and consequently of its expenses. Since that period, too, we had paid large sums to extinguish Indian titles. Claims growing out of the late war had been paid; and a million and a half of dollars were distributed among the soldiers of the revolution.

It had been stated, that the expense of foreign intercourse in the last three years of Mr. Monroe's administration had been \$280,000, and in the three first years of the present, \$413,000. But in this statement, the appropriations for 1825, which had been made before Mr. Adams came into office, had been erroneously imputed to him. By comparing the appropriations for foreign intercourse for 1823, 1824, and 1825, with those for 1826, 1827, and 1828, it would appear, that, in the latter period, the expense was \$27,000 less than in the former. Other comparisons with preceding administrations were made by Mr. B., representing the expenses of Mr. Adams' administration to have been less than those of its predecessors.

The appointment of members of congress to office who had voted for

Mr. Adams in the House, had been referred to as an evidence of the corruption of the administration. Mr. Jefferson's administration had been held up as a model for imitation. He, too, had been chosen by the house; and he had appointed a larger number of members of congress to office than Mr. Adams had. The old charge of bargain and intrigue, as connected with the last presidential election, had been reiterated, notwithstanding the gentleman from Pennsylvania, (Mr. Buchanan,) who had been designated by the accuser as witness, had said in his place to this house, and to the world: "Of the charge of corruption in the election, I will not speak: if there was any, I know it not."

Mr. Adams had been charged with "lawless constructions" of the constitution and laws to extend his power and patronage. And under this construction he had appointed foreign ministers on original missions, in the recess of the senate. The same power, said Mr. Wright, of Ohio, had been exercised by Washington, Jefferson, Madison and Monroe; and he cited the instances. Mr. Jefferson had, in the recess of the senate, in 1801, instituted the office of secretary of legation, and commissioned one such officer to France, and another to Spain; and he had appointed six consuls to places, to which none had been sent before.

But we have not room to pursue this debate, a large portion of which would scarcely be considered creditable to the body in which it occurred. It abounded with personalities and criminations. Certain acts of Mr. Adams before his election, and those of his competitor for the presidency, were made the subject of severe animadversion.

The *motives* of the opposition were impugned. Every preceding administration, it was said, had been similarly assailed. The object was to overthrow the administration. A certain letter published in the opposition papers, and highly applauded, was referred to as evidence of a combination of the friends of the disappointed rival candidates for this purpose. The letter said: "To the friends of Jackson and Crawford, those of John C. Calhoun are added; and the union forms such a force of numbers, talents, and influence, that it would seem improbable that this can be effectively met by Mr. Adams and Mr. Clay and their friends, aided by their united experience, ability, patronage, and official advantages, great as they are. Men are so very sincere in their dislikes, that the most opposite natures will coalesce to diminish the power of an object of a higher common aversion, and will surrender the strongest personal competition to unite for mutual safety."

On the 6th of February, 1828, the resolutions of Mr. Chilton, having been considerably amended, were referred to a select committee, consist of Messrs. Hamilton, Ingham, Sergeant, Rives, Everett, Wickliffe, and Wright, of New York. On the 22d of May, this committee reported re-

solutions instituting an inquiry, during the recess of congress, into the accounts of Gales and Seaton, as public printers, the prices paid them for printing, &c., and whether in any instances, they had departed from the standard ; and requiring a report and statement to be submitted at the next session of congress.

On the 24th of May, the last business day of the session preceding the day of adjournment, Mr. Hamilton reported a mass of papers and documents which had accumulated in the course of the investigations of the committee, and stated, that, from want of time, they had not been able to prepare the bills and resolutions necessary to carry their recommendation into effect ; but it was their intention to move a recommitment of the report for this purpose, on an early day of the next session. A minority report was submitted by Mr. Sergeant.

Accordingly, on the 31st of December, 1828, Mr. Hamilton moved the commitment of the report, and assured the house that the requisite bill should be prepared with all possible expedition. On the 24th of January, 1829, a resolution on the subject of stationery came up, which, after a short debate, was, on motion of Mr. Hamilton, laid on the table with a view to its being embraced in the bill about to be reported for the whole retrenchment of the house. No bill, however, was reported.

CHAPTER XXXIII.

PRESIDENTIAL ELECTIONEERING.—JEFFERSON'S OPINIONS OF THE CANDIDATES.—ADAMS AND GILES CONTROVERSY.

AMONG the means employed to advance the interests of the candidates for the presidency, were attempts, on the part of their friends, to avail themselves of the influence of the opinions of Mr. Jefferson.

On the 20th of November, 1827, a number of citizens of the state of Illinois, addressed to Gov. Coles, of that state, a letter, in which they said they had seen in the public papers, opinions said to have been expressed to him by Mr. Jefferson of Gen. Jackson, a short time before the death of the former. They said also that the United States Telegraph, (the Jackson paper at Washington,) had asserted that he (Gov. Coles) had denied ever having made the statements imputed to him, and that other papers declared that he had made them : and they requested him to state, as nearly as possible, the last conversation he had with Mr. Jefferson in relation to Gen. Jackson and his fitness for the presidency.

Gov. Coles, in his answer, says the conversation took place on the 11th of August, 1825, while on a visit to Monticello. Mr. Jefferson, in speaking of the candidates at the last election, expressed a decided preference for Mr. Crawford, and his regret that he had lost his health, and with it his election. But having failed to elect him, he expressed his gratification that the choice had fallen on Mr. Adams, to whom he said he had objections, but conceived him to be more safe and fit, and, by his acquirements and habits of life, better qualified than Gen. Jackson to discharge the duties of the presidency. "In a word," continues the governor, "he spoke of Mr. Adams as an enlightened and experienced statesman, of Gen. Jackson as a valiant and successful soldier, with no other pretension to the chief magistracy than that derived from his military services. While conversing about Gen. Jackson, I took occasion to say, that the great zeal which had been displayed to elect the general, and the extraordinary vote he had received, had made me doubt the durability of our free institutions. Mr. Jefferson, in the most emphatic manner, said, 'Sir, it has caused me to doubt more than any thing that has occurred since the revolution; that he (Gen. Jackson) did not possess the temper, the acquirements, the assiduity, the physical qualifications for the office; that he had been in various civil offices, and had made a figure in none: and that he had completely failed to show himself competent to an executive trust in Florida—in a word', said the venerable old patriarch, 'there are one hundred men in Albemarle county better qualified for the presidency.' "

The governor said, that, having had a conversation with Thomas W. Gilmer, (since governor of Virginia,) and having learned that he had repeated the same remark to many others, he (Gov. C.) addressed him a note, and received an answer, dated May 27, 1827, in which Mr. Gilmer says: "Mr. Jefferson made no secret of his opinions of Gen. Jackson. As a soldier and patriot, the general was regarded by Mr. Jefferson, as by the American people, with admiration and gratitude. I speak more from information derived from others, than of what I know myself, when I say, that Mr. Jefferson's opinion of Gen. Jackson as a statesman was less favorable. I believe his opinion on this subject was notorious among those who possessed any share of his confidence.

"I remember to have heard Mr. Jefferson, on one occasion, use an expression which struck me, not so much by the sentiment it contained, (which, indeed, was a very common one in Virginia,) as the style in which it was made. Speaking of the several candidates for the presidency, before the last election, he remarked, that 'one might as well make a sailor of a cock, or a soldier of a goose, as a president of Andrew Jackson.' These words made an indelible impression on my memory. They

were uttered with a tone of sportive, almost with contemptuous derision. Mr. Jefferson was descanting at the time when this remark was elicited, on the proneness of the multitude to give a man who possessed one virtue, credit for others which he did not possess, or of the want of discrimination in the public mind, where any thing like enthusiasm and favoritism was mingled with a subject.

"It is due, perhaps, to justice and truth to add, that Mr. Jefferson, so far as I know, entertained opinions equally unfavorable of John Q. Adams as a statesman. I think in the conversation just alluded to, he spoke of him as having been always one thing in politics, and having undergone no actual change since the days of his pupilage in the school of the elder Adams. * * *

"I have repeatedly heard others speak of Mr. Jefferson's sentiments on this subject. I do not recollect to have heard Mr. Jefferson say any thing in relation to Gen. Jackson after the late election; and it is not for me to surmise what might have been his opinion at this time, were he alive. I must say, in conclusion, that I am grieved to find that the press has stooped so far below its proper dignity as to use such unbecoming means to instruct or convince the public."

The apparent discrepancy in the statements of Messrs. Coles and Gilmer in regard to Mr. Jefferson's opinions of Mr. Adams does not affect the veracity of either of these gentlemen, when it is considered that the conversation with one of them was antecedent, and that with the other subsequent, to the election; and that, during the intervening period, a change in Mr. Jefferson's opinions may have taken place, which is highly probable.

Subsequently to the publication of Mr. Gilmer's letter, by Gov. Coles, the former published a statement, (Dec. 1827,) in which he says: "Had Mr. Coles desired it, I should have been equally explicit as to the opinions which Mr. Jefferson at the same time expressed of Mr. Adams. I should have stated what Mr. C. would not have been so eager to publish; that while Mr. Jefferson spoke thus in jest of Gen. Jackson's elevation to the presidency, he seriously deprecated the election of Mr. Adams as an evil portending most calamitous consequences to the country. * * * He spoke of Mr. Adams as the federal candidate, whose election would be the means of restoring the federal dynasty of 1798—as a man whose earliest and strongest predilections had been imbibed in the high schools of ultra-federalism—whose political principles, however artfully disguised, had undergone no change by his pretended apostacy. He regarded Mr. Adams a learned rather than wise man—as a politician, more specious than sound—possessing many of the erroneous theories, with little of the practicability of a statesman."

Mr. Coles having alluded to a letter from Peter Minor, deceased, to his brother Garret Minor, in which were detailed opinions of Mr. Jefferson similar to those expressed to Mr. Coles, Mr G. Minor procured the publication of that part of his brother's letter which relates to Mr. Jefferson, and which was in answer to one from him, stating that the friends of Mr. Crawford had generally gone over to Gen. Jackson. Mr. P. Minor says: "I admire the refuge which you say you are all seeking in a body from the oppressions of Mr. Adams' administration. Mr. Jefferson, of late years, seldom ventured to say any thing on politics; but he observed to a friend, not many weeks before his death, that his faith in the self-government of the people had never been so completely shaken as it had been by the efforts made at the last election, to place over their heads a man who, in every station he ever filled, either military or civil, made it a point to violate every order and instruction given him, and take his own arbitrary will as the guide of his conduct."

Another case occurred before the election of 1828, of Mr. Jefferson's sentiments being improperly brought into the public prints for the purpose, as is presumed, of influencing the public mind on the subject of the election.

It will be recollected that, in 1808, Mr. Adams, having become dissatisfied with the federal party, whose views he could no longer represent, resigned his seat in the senate of the United States, and became the political friend of Mr. Jefferson, and the supporter of his administration; and it was believed that he then enjoyed, and continued to enjoy, a large share of the confidence and good opinion of Mr. Jefferson. Mr. Jefferson, as has been already seen, was an advocate of a strict construction of the constitution, also called "state rights;" whereas, the inaugural address, and the first annual message of Mr. Adams, and the early indications of the character of his administration, had shown him to be, in the opinion of Mr. Jefferson, too latitudinarian in his views of the powers of the general government. And there were those among his opponents who alleged that he had never been a true and sincere republican; that his political conversion had been a mere pretense. One of these was William B. Giles, of Virginia.

The presidential election was approaching; and it is natural to presume that either party would gladly avail itself of the influence of Mr. Jefferson in favor of its own, or against the opposing candidate. In the *Richmond Enquirer* of the 7th of September, 1827, Mr. Giles caused to be published extracts of a letter from Mr. Jefferson, dated December 26, 1825, in answer to one from Mr. Giles, in relation to Mr. Adams and his administration. In this letter, Mr. Jefferson says:

"I see, as you do, and with the deepest affliction, the rapid strides

with which the federal branch of our government is advancing toward the usurpation of all the rights reserved to the states, and the consolidation in itself of all powers, foreign and domestic, and that too, by constructions, which, if legitimate, leave no limits to their power. Take together the decisions of the federal court, the doctrines of the president, and the misconstructions of the constitutional compact acted on by the legislature of the federal branch, and it is but too evident that the three ruling branches of that department are in combination to strip their colleagues, the state authorities, of the powers reserved by them, and to exercise themselves, all functions, foreign and domestic. Under the power to regulate commerce, they assume indefinitely that also over agriculture and manufactures, and call it regulation too, to take the earnings of one of these branches of industry, and that, too, the most depressed, and put them into the pockets of the other, the most flourishing of all. Under the authority to establish post-roads, they claim that of cutting down mountains for the construction of roads; of digging canals; and, aided by a little sophistry on the words "general welfare," a right to do, not only the acts, to effect that, which are specifically enumerated and permitted; but whatsoever they shall think or pretend will be for, the general welfare. And what is our resource for the preservation of the constitution? Reason and argument? You might as well reason and argue with the marble columns encircling them. The representatives chosen by ourselves? They are joined in the combination, some from incorrect views of government, some from corrupt ones, sufficient, voting together, to outnumber the sound parts, and with majorities of only one, two, or three, bold enough to go forward in defiance. *'Are we then to stand to our arms?'*

"No! that must be the last resource, not to be thought of until much longer and greater suffering. If every infraction of a compact of so many parties, is to be resisted at once as a dissolution of it, none can ever be formed which would last one year. We must have patience and long endurance, then, with our brethren while under delusion. Give them time for reflection and experience of consequences; keep ourselves in a situation to profit by the chapter of accidents; and separate from our companions only when the sole alternatives left are a dissolution of the union, or submission to a government without a limitation of powers. Between these two evils, when we must make a choice, there can be no hesitation; but, in the meanwhile, the states should be watchful to note every material usurpation of their rights; to denounce them as they occur in the most peremptory terms; to protest against them as wrongs to which our present submission shall be considered, not as acknowledgments or precedents of rights, but as a temporary yielding to the lesser evil, until their

accumulation shall outweigh their separation. I would go still further, and give to the federal member, by regular amendment of the constitution, a right to make roads and canals of intercommunication between the states—providing sufficiently against corrupt practices in congress, (log rolling, &c.,) by declaring that the federal proportion of each state of the moneys so employed, shall be in works within the state, or elsewhere with its consent, and with a due salvo of jurisdiction. This is the course which I think safest and best as yet.

“ You ask my opinion of the propriety of giving publicity to what is stated in your letter as having passed between Mr. John Q. Adams and yourself. Of this no one can judge but yourself. It is one of those questions which belong to the forum of feeling. This alone can decide on the degree of confidence implied in the disclosure. Whether, under no circumstances, it was to be communicable to others. It does not seem to be of that character, or at all to wear that aspect. They are historical facts which belong to the present as well as future time. I doubt whether a single fact, known to the world, will carry as clear a conviction to it, of the correctness of our knowledge of the treasonable views of the federal party of that day, as that disclosed by this most nefarious and daring attempt to dis sever the union, of which the Hartford Convention was a subsequent chapter; and both of these having failed, consolidation becomes the first book of their history. But this opens with a vast accession of strength from their younger recruits, who, having nothing in them of the feelings or principles of '76, now look to a single and splendid government of an aristocracy founded on banking institutions and moneyed incorporations, under the guise and cloak of their favored branches of manufactures, commerce, and navigation, riding and ruling over the plundered plowman and beggared yeomanry. This will be to them a next blessing to the monarchy of their first aim—and perhaps their surest stepping stone to it.”

On the 11th of October, 1828, Judge Archibald Stewart, of Staunton, Virginia, wrote to Thomas Jefferson Randolph, grandson and executor of Thomas Jefferson, saying: “ I am advised that among the papers in your possession, there is a letter written by your grandfather, vindicating Mr. Adams' political course in the support which he gave to his administration, and the reasons which entitled him to so large a share of his confidence. * * * Candid men of all parties will be gratified to receive testimony from so pure a source. May I then ask the favor of you to furnish me with a copy of the letter referred to, that it may be laid before the people.”

Mr. Randolph, in compliance with this request, sent a copy of the letter; and, in an accompanying letter, said he deemed it no violation of

his trust "to allow them (the writings of his grandfather) to be used as vindictory testimony of the character or conduct of any individual." He says farther: "The facts contained in this letter have long been familiar to me, having often heard them with great interest from my grandfather in conversation with others, on different occasions, from the date of their occurrence to his death."

This letter of Mr. Jefferson was dated the 25th of December, 1825, the day before that from which the foregoing extracts have been taken; and both were written in answer to a letter from Mr. Giles of the 15th of December, in which he communicated to Mr. Jefferson the intention of continuing a series of "political disquisitions," which he had been writing for the public "on the rapidly progressive usurpations of the general government," and of extending these disquisitions into an examination of some of the most prominent principles avowed in the recent message of the president. "In the performance of this task," he says, "I think material aid might be derived from looking back to the period of Mr. Adams' political conversion, reviewing the inducements then suggested by him for his conversion; and tracing the outlines of the policy pursued by him from that time to the present. But I could not permit myself to place that transaction before the public without consulting you, sir, upon the propriety of the measure." One of the objects of consulting Mr. Jefferson was to know whether his (Mr. Giles') recollection of the inducements suggested by Mr. Adams for his political change was correct.

Mr. Jefferson says in reply: "Far advanced in my 83d year, worn down with infirmities which have confined me almost entirely to the house for seven or eight months past, it afflicts me much to receive appeals to my memory for transactions so far back as that which is the subject of your letter. My memory is indeed become almost a blank, of which no better proof can probably be given you, than by my solemn protestation that I have not the least recollection of your intervention between Mr. John Q. Adams and myself, in what passed on the subject of the embargo. Not the slightest trace of it remains in my mind. Yet I have no doubt of the exactitude of the statement in your letter. And the least as I recollect the interview with Mr. Adams to which the previous communication which had passed between him and yourself, were probably and naturally the preliminary. That interview I remember well, not, indeed, in the very words which passed between us, but in their very substance, which was of a character too awful, too deeply engraved in my mind, and influencing too materially the course I had to pursue, ever to be forgotten.

"Mr. Adams called on me pending the embargo, and while endeavors

were making to obtain its repeal. * * * He spoke of the dissatisfaction of the eastern portion of our confederacy with the restraints of the embargo, then existing, and their restlessness under it. That there was nothing that might not be attempted to rid themselves of it. That he had information of the most unquestionable certainty, that certain citizens of the eastern states, (I think he named Massachusetts particularly,) were in negotiation with the agents of the British government, the object of which was an agreement, that the New England states should take no farther part in the war then going on; that, without formally declaring their separation from the union of the states, they should withdraw from all aid and obedience to them; that their navigation and commerce should be free from restraint or interruption by the British; that they should be considered and treated by them as neutrals, and as such might conduct themselves towards both parties; and, at the close of the war, be at liberty to rejoin the confederacy.

“He assured me that there was imminent danger that the convention would take place; that the temptations were such as might debauch many from their fidelity to the union; and that to enable its friends to make head against it, the repeal of the embargo was absolutely necessary. I expressed a just sense of the merit of the information, and of the importance of the disclosure to the safety and even salvation of our country: and however reluctant I was to abandon the measure, (a measure which, persevered in a little longer, we had subsequent and satisfactory assurance would have effected its object completely,) from that moment, and influenced by that information, I saw the necessity of abandoning it; and instead of effecting our purpose by this peaceful weapon, we must fight it out, or break the union. I then recommended to my friends to yield to the necessity of a repeal of the embargo, and to endeavor to supply its place by the best substitute in which they could procure a general concurrence.

“I can not too often repeat, that this statement is not pretended to be in the very words which passed; that it only gives faithfully the impression remaining on my mind. The very words of a conversation are too transient and fugitive to be so long retained in remembrance. But the substance was too important to be forgotten, not only from the revolution of measures it obliged me to adopt, but also from the renewals of it in my memory on the frequent occasions I have had of doing justice to Mr. Adams, by repeating this proof of his fidelity to his country, and of his superiority over all ordinary considerations when the safety of that was brought into question.

“With this best exertion of a waning memory which I can command, accept assurances of my constant and affectionate friendship and respect.”

The publication of this letter drew forth a statement by the editors of the National Intelligencer, authorized by Mr. Adams to be made, and which appeared in that paper of October 21, 1828. As this statement contains sundry important facts of the history of the eventful period in which they occurred, and also was the occasion of the correspondence which ensued between Mr. Adams and the citizens of Massachusetts which afterward took place, we copy it entire.

"The indistinctness of the recollections of Mr. Jefferson, of which the letter itself feelingly complains, has blended together three distinct periods of time, and the information which he did receive from Mr. Adams, with events which afterwards occurred, and of which Mr. Adams could not have informed him. It unfortunately happens that this error is apparent on the face of the letter itself. It says: 'Mr. Adams called on me *pending the embargo*, and while endeavors were making to obtain its repeal.' He afterwards says, that at this interview Mr. Adams, among other things, said 'he had information of the most unquestionable certainty, that certain citizens of the eastern states, (I think he named Massachusetts particularly,) were in negotiation with agents of the British government, the object of which was an agreement that the New England states should take no farther part in the war then going on,' &c.

"The embargo was enacted on the 22d of December, 1807, and repealed by the non-intercourse act on the 1st of March, 1809. The war was declared in June, 1812.

"In August, 1809, Mr. Adams embarked for Russia, nearly three years before the declaration of war, and did not return to the United States till August, 1817, nearly three years after the conclusion of the peace.

"Mr. Madison was inaugurated president of the United States on the 4th of March, 1809.

"It was impossible, therefore, that Mr. Adams could have given any information to Mr. Jefferson of negotiations by citizens of Massachusetts with British agents, *during the war*, or having relation to it. Mr. Adams never had knowledge of such negotiations.

"The interview to which Mr. Jefferson alludes, took place on the 15th of March, 1808, pending the embargo; but, at the session of congress before the substitution for it of the non-intercourse act. The information given by Mr. Adams to Mr. Jefferson, had only an indirect reference even to the embargo, and none to any endeavors for obtaining its repeal. It was the substance of a letter from the governor of Nova Scotia to a person in the state of Massachusetts, written in the summer of 1807 and before the existence of the embargo; which letter Mr

Adams had seen. It had been shown to him without any injunction of secrecy, and he betrayed no confidence in communicating its purport to Mr. Jefferson. Its object was to countenance and accredit a calumny then extensively prevailing, among the enemies of Mr. Jefferson and the opponents of his administration, that he and his measures were subservient to France; and it alleged that the British government were informed of a plan, determined upon by France, to effect the conquest of the British provinces on this continent, and a revolution in the government of the United States, as means to which they were first to produce war between the United States and England.

"From the fact that the governor of Nova Scotia had written such a letter to an individual in Massachusetts, connected with other facts, and with movements of the party then predominant in that state, Mr. Adams and Mr. Jefferson drew their inferences, which subsequent events doubtless confirmed; but which inferences neither Mr. Jefferson nor Mr. Adams then communicated to each other. This was the only confidential interview which, during the administration of Mr. Jefferson, took place between him and Mr. Adams. It took place first at the request of Mr. Wilson Carey Nicholas, then a member of the house of representatives of the United States, a confidential friend of Mr. Jefferson; next, of Mr. Robinson, then a senator from Vermont; and lastly, of Mr. Giles, then a senator from Virginia—which request is the only intervention of Mr. Giles, ever known to Mr. Adams, between him and Mr. Jefferson. It is therefore not surprising, that no such intervention occurred to the recollection of Mr. Jefferson, in December, 1825.

"This interview was in March, 1808. In May, of the same year, Mr. Adams resigned his seat in the senate of the United States. At the next session of congress, which commenced in November, 1808, Mr. Adams was a private citizen, residing at Boston. The embargo was still in force, operating with extreme pressure upon the interests of the people, and was wielded as a most effective instrument, by the party prevailing in the state, against the administration of Mr. Jefferson. The people were constantly instigated to resistance against it, and juries after juries acquitted the violators of it, upon the ground that it was unconstitutional, assumed in the face of a solemn decision of the district court of the United States. A separation of the union was openly stimulated in the public prints, and a convention of delegates of the New England states, to meet at New Haven, was intended and proposed.

"Mr. Giles and several other members of congress, during this session, wrote to Mr. Adams confidential letters, informing him of the various measures proposed as reinforcements or substitutes for the embargo, and soliciting his opinions upon the subject. He answered those letters with

frankness and in confidence. He earnestly recommended the non-intercourse for the embargo; and in giving his reasons for this preference, was necessarily led to enlarge upon the views and purposes of certain leaders of the party which had the management of the state legislature in their hands. He urged that a continuance of the embargo much longer would certainly be met by forcible resistance, supported by the legislature, and probably by the judiciary of the state. That to quell that resistance if force should be resorted to by the government, it would produce a civil war; and that, in that event, he had no doubt the leaders of the party would secure the coöperation with them of Great Britain. That their object was, and had been for several years, the dissolution of the union, and the establishment of a separate confederation he knew from unequivocal evidence, although not provable in a court of law; and that, in the case of a civil war, the aid of Great Britain to effect that purpose would be as surely resorted to, as it would be indispensably necessary to the design.

“That these letters of Mr. Adams to Mr. Giles and to other members of congress, were read or shown to Mr. Jefferson, he never was informed. They were written, not for communication to him, but as answers to letters of his correspondents, members of congress, soliciting his opinions upon measures in deliberation before them, and upon which they were to act. He wrote them as the solicited advice of friend to friend, both ardent friends to the administration and to their country. He wrote them to give to the supporters of the administration of Mr. Jefferson in congress, at that crisis, the best assistance, by his information and opinions, in his power. He had certainly no objection that they should be communicated to Mr. Jefferson; but this was neither his intention nor desire. In one of the letters to Mr. Giles, he repeated an assurance which he had verbally given him during the preceding session of congress, that he had for his support of Mr. Jefferson’s administration no personal or interested motive, and no favor to ask of him whatever.

“That these letters to Mr. Giles were by him communicated to Mr. Jefferson, Mr. Adams believes from the import of this letter from Mr. Jefferson, now first published, and which has elicited this statement. He believes, likewise, that other letters from him to other members of congress, written during the same session, and upon the same subject, were also communicated to him; and that their contents, after a lapse of seventeen years, were blended confusedly in his memory, first with the information given by Mr. Adams to him at their interview in March, 1808, nine months before; and next, with the events which occurred during the subsequent war, and of which, however natural as a sequel to

the information and opinions of Mr. Adams, communicated to him at these two preceding periods, he could not have received the information from him."

It will at once appear to the reader, that the matter of the two letters of Mr. Jefferson is irreconcilable. His more discreet friends at the time deeply regretted and censured the course of Mr. Giles in publishing the extracts of the letter of the 26th of December, which had been the occasion of calling out the other; the two taken together showing conclusively the failure of Mr. Jefferson's memory and mental faculties. They saw no justification for thus violating the sacredness of private correspondence to gratify his own animosities. Mr. Giles was for a time suspected of not having correctly represented the contents of the letter from which he published extracts. This suspicion was founded upon the fact of his having *suppressed* the letter of the 25th, which bore testimony to Mr. Adams' "fidelity to his country," whereas common justice required that both letters, if either, should have been given to the public.

Mr. Giles gave as a reason for not publishing the first of the two letters, that he believed it "to have been so undue and unfortunate an impression, producing so many palpable errors, as that its publication would have done no less injustice to Mr. Jefferson than to the public."

The statement in the *Intelligencer* "that Mr. Giles and other members of congress wrote to Mr. Adams confidential letters, informing him of the various measures proposed as reinforcements or substitutes for the embargo, and soliciting his opinions on the subject;" and that "he answered those letters with frankness and in confidence," Mr. Giles denied, and insinuated that Mr. Adams had "invented the extraordinary tale to screen himself from imputations he could not otherwise avoid." Whereupon the editors of the *Intelligencer* stated that Mr. Adams had read to them from his letter-book copies of his letters in answer to four letters of Mr. Giles, during the session of 1808-9.

Mr. Giles having in one of his communications in the *Richmond Enquirer*, used the name of T. J. Randolph in a manner deemed by Mr. Randolph "unmerited and uncourteous," the latter addressed a letter to the editors of that paper, justifying himself for allowing the letter of Mr. Jefferson to be used "to remove certain false impressions, entertained by the public, of the estimation in which Mr. Adams was held by Mr. Jefferson;" explaining that part of the letter of the 25th of December, 1825, in which Mr. Jefferson was supposed to have committed errors in consequence of the failure of his mind and memory; and administering some severe rebukes to Mr. Giles.

Mr. Randolph thus explains the apparent errors in the letter alluded

to: " Mr. Jefferson uses the expression of 'the war then going on,' and again 'at the close of the war.' Having myself heard the substance of this letter from his own lips so often, and its having been so long familiar to me, I had not, perhaps, sufficiently adverted to the literal construction which would be applied to these words, by persons to whom the subject would be new. In the first expression, he alludes to the war waged by the belligerents on our commerce, and the war of restrictive measures on our part. In the latter he speaks of the actual war which was about to take place, and which the whole language of his correspondence of that day shows that he believed to be immediate and inevitable. How otherwise is the inconsistency of these expressions with the following to be accounted for? 'I saw the necessity of abandoning it; and instead of effecting our purpose by this *peaceful* weapon, we must fight it out.' If the first expressions are to be taken literally, and not figuratively, great, indeed, must have been the wane of mind and of memory, which had become inadequate to detect the striking inconsistencies of so short a letter; copying, too, from the rough draft, (as he always did,) and revising carefully everything before it passed from his hands. As an additional evidence that those words were used figuratively, and not literally, I quote from a letter of his, dated January 28, 1809, to Mr. Monroe, when the events here spoken of were in their actual transit, the following expression: 'Our *peace* and prosperity may be revived.' This taken literally would likewise suppose the actual existence of war; for 'peace' to be 'revived,' must first have been lost, and its opposite condition, war, in existence; and yet I presume it is not intended to be insinuated that this fatuity existed in 1809."

Mr. Randolph also states that Mr. Giles omitted one important sentence in publishing the extracts from the letter of December 26, 1825: that sentence was the first, as follows: "I wrote you a letter yesterday of which you will be free to make what use you please. This will contain matter *not intended for the public eye.*" "Yet," says Mr. Randolph, "this letter was shown immediately after its receipt, [see Mr. Jefferson's letter of January 21, 1826,] and, I am well assured, was openly alluded to in a debate in the senate, the letter being at the very moment in the pocket of the speaker who based his attack on Mr. Adams on the contents of that letter."

Mr. Giles having stated that "Mr. Jefferson never entertained a good opinion of Mr. Adams, perhaps for some time before, and certainly never after his message to congress, in December, 1825," Mr. Randolph, in reply, refers to the letter before mentioned, of January 21, 1826. It was probably an answer to one from a friend who had informed him

of the use Mr. Giles had made of his letter of December preceding. The following are extracts from it :

"Dear Sir: Your favor of Jan. 15th, is received, and I am entirely sensible of the kindness of your motives which suggested the caution it recommended; but I believe what I have done, is the only thing I could have done with honor and conscience. Mr. Giles requested me to state a fact which he knew himself, and of which he knew me to be possessed. What use he intended to make of it, I knew not, nor have I a right to inquire, or to indicate any suspicion that he would make an unfair one; that was his concern, not mine; and his character was sufficient to sustain the responsibility for it. * * * With his personal controversies I have nothing to do. I never took any part in them, or in those of any other person: add to this, that the statement I have given him on the subject of Mr. Adams, is entirely honorable to him, in every sentiment and fact it contains. There is not a word in it which I would wish to recall; it is one which Mr. Adams himself might willingly quote, did he need to quote any thing. It was simply, that, during the continuance of the embargo, Mr. Adams informed me of a combination, (without naming any one concerned in it,) which had for its object the severance of the union, for a time at least; that Mr. Adams and myself, not being then in the habit of mutual consultation and confidence, I considered it as the stronger proof of the purity of his patriotism, which was able to lift him above all party passions when the safety of his country was endangered; nor have I kept the honorable fact to myself; during the late canvass particularly, I had more than once occasion to quote it to persons who were expressing opinions respecting him, of which this was a direct corrective. I have never entertained for Mr. Adams any but sentiments of esteem and respect; and if we have not thought alike on political subjects, I yet never doubted the honesty of his opinions; of which the letter in question, if published, will be an additional proof. Still I recognize your friendship in suggesting a review of it."

Doubts having been expressed of the existence of the letters said to have been written to Mr. Adams by Mr. Giles, during the session of 1808-9, they were procured from Mr. Adams' domicile in Massachusetts, and published. In them Mr. Giles speaks of the "purity and disinterestedness" of Mr. Adams—expresses the hope that he would "again appear upon the theater of public life"—and applauds him for his "judicious and independent conduct."

CHAPTER XXXIV.

POLITICS OF 1808.—MR. ADAMS AND THE BOSTON FEDERALISTS.—CHARGE
OF AN ATTEMPT TO DIVIDE THE UNION.

As might have been expected, the publication of the letter of Mr Jefferson of the 25th of December, 1825, to Mr. Giles, detailing the disclosures of Adams respecting the designs of the eastern federalists in 1808, and the statement, authorized by Mr. Adams, and published in the *National Intelligencer*, produced considerable excitement among the leading men of Massachusetts, and, at least for a time, alienated in a measure the affections, and impaired the confidence and esteem of many of the friends of Mr. Adams in that state.

On the 26th of November, 1828, thirteen citizens of Massachusetts residing in and near Boston, addressed a letter to Mr. Adams, asking from him such a full and precise statement of the facts and evidence relating to this accusation, as might enable them fairly to meet and answer it. Although they did not claim the title of "leaders" of any party in Massachusetts, they said they were associated in politics with the party alluded to; some of them had concurred in all the measures adopted by that party; and all of them warmly approved and supported those measures. They requested Mr. Adams to state, who were the persons, designated as leaders of the party prevailing in Massachusetts, whose object was a dissolution of the union, and the establishment of a separate confederation; and what was the evidence.

These citizens say: "A charge of this nature, coming as it does from the first magistrate of the nation, acquires an importance which we can not affect to disregard; and it is one which we ought not to leave unanswered. We are therefore constrained, by a regard to our deceased friends, and to our posterity, as well as by a sense of what is due to our own honor, most solemnly to declare, that we have never known nor suspected that the party which prevailed in Massachusetts in the year 1808, or any other party in this state, ever entertained the design to produce a dissolution of the union, or the establishment of a separate confederation. It is impossible for us in any other manner to refute, or even to answer this charge, until we see it fully and particularly stated, and know the evidence by which it is to be maintained."

The letter was signed by H. G. Otis, Israel Thorndike, T. H. Perkins, William Prescott, Daniel Sargent, John Lowell, Wm. Sullivan, Charles Jackson, Warren Dutton, Benj. Pickman, Henry Cabot, C. C.

Parsons, and Franklin Dexter. The last three were the sons and representatives of George Cabot, Theophilus Parsons, and Samuel Dexter, deceased.

The reply of Mr. Adams is of such length as to forbid its insertion entire. He said he could not recognize the persons who addressed him as the representatives of the party alluded to; and he undertook to show the impropriety of answering their interrogatories. He does, however, detail some of the facts upon which he founds the charge of a design to separate from the union. He says:

"The simple fact of which I apprised Mr. Jefferson was, that, in the summer of 1807, about the time of what was sometimes called the *affair* of the Leopard and the Chesapeake, I had seen a letter from the governor of Nova Scotia to a person in Massachusetts, affirming that the British government had certain information of a plan by that of France, to conquer the British possessions, and to effect a revolution in the United States, by means of a war between them and Great Britain. As the United States and Great Britain were in 1807 at peace, a correspondence with the governor of Nova Scotia, held by any citizen of the United States, imported no violation of law; nor could the correspondent be responsible for any thing which the governor might write. But my inferences from this fact were, that there existed between the British Government and the party in Massachusetts opposed to Mr. Jefferson, a channel of communication through the governor of Nova Scotia, which *he* was exercising to inflame their hatred against France, and their jealousies against their own government. The letter was not to any leader of the federal party; but I had no doubt it had been shown to some of them, as it had been to me, without injunction of secrecy; and, as I supposed, with a view to convince me that this conspiracy between Napoleon and Mr. Jefferson really existed. How that channel of communication might be further used, was matter of conjecture; for the mission of John Henry was nine months after my interview with Mr. Jefferson, and precisely at the time I was writing to my friends in congress the letters urging the substitution of the non-intercourse for the embargo. Of Mr. Henry's mission I knew nothing until it was disclosed by himself in 1812.

"It was in these letters of 1808 and 1809, that I mentioned the design of *certain leaders* of the federal party to effect a dissolution of the union, and the establishment of a northern confederacy. This design had been formed in the winter of 1803 and 4, immediately after, and as a consequence of the acquisition of Louisiana. Its justifying causes to those who entertained it were, that the annexation of Louisiana to the union transcended the constitutional powers of the government:

of the United States; that it formed in fact a new confederacy to which the states, united by the former compact, were not bound to adhere; that it was oppressive to the interests and destructive to the influence of the northern section of the confederacy, whose right and duty it therefore was to secede from the new body politic, and to constitute one of their own. This plan was so far matured, that the proposal had been made to an individual to permit himself at the proper time, to be placed at the head of the military movements, which it was foreseen would be necessary for carrying it into execution. In all this there was no overt act of treason. In the abstract theory of our government, the obedience of the citizen is not due to an unconstitutional law. He may lawfully resist its execution. If a single individual undertakes this resistance, our constitutions, both of the United States, and of each separate state, have provided a judiciary power, judges, and juries, to decide between the individual and the legislative act which he has resisted as unconstitutional. But let us suppose the case that the legislative acts of one or more states of this union are passed, conflicting with acts of congress, and commanding the resistance of their citizens against them, and what else can be the result but war—civil war? And is not that *de facto* a dissolution of the union, so far as the resisting states are concerned? And what would be the condition of every citizen of the resisting states? Bound by the double duty of allegiance to the union and to the state, he would be crushed between the upper and nether millstone, with the performance of every civic duty converted into a crime, and guilty of treason, by every act of obedience to the law."

Mr. Adams said his opinion was, that the power of annexing Louisiana to the union had not been delegated to congress by the constitution, and this was recorded on the journals of the senate, of which he was then a member. The bills, however, making appropriations for carrying the convention into effect, and for enabling the president to take possession of the ceded territory, which were opposed by those who had voted against the ratification of the treaty, he had warmly and cordially supported.

The following paragraphs are given on account of the constitutional opinions expressed in them, in relation to the purchase and annexation of Louisiana, and to the secession of states :

"I had no doubt of the constitutional power to make the treaties. It is expressly delegated in the constitution. The power of making the stipulated payment for the cession, and of taking possession of the ceded territory, was equally unquestioned by me;—they were constructive powers, but I thought them fairly incidental, and necessarily consequent upon the power to make the treaty. But the power of annexing the in-

habitants of Louisiana to the union, of conferring upon them in a mass, all the rights, and requiring of them all the duties of citizens of the United States, it appeared to me had not been delegated to congress by the people of the union, and could not have been delegated by them, without the consent of the people of Louisiana themselves. I thought they required an amendment of the constitution, and a vote of the people of Louisiana; and I offered to the senate resolutions for carrying both those measures into effect, which were rejected.

"It has been recently ascertained, by a letter from Mr. Jefferson to Mr. Dunbar, written in July, 1803, after he had received the treaties, and convened congress to consider them, that, in his opinion, the treaties could not be carried into effect without an amendment to the constitution; and that the proposal for such an amendment would be the first measure adopted by them at their meeting. Yet Mr. Jefferson, president of the United States, did approve the acts of congress, assuming the power which he had so recently thought not delegated to them, and, as the executive of the union, carried them into execution.

"Thus Mr. Jefferson, president of the United States, the federal members of congress, who opposed and voted against the ratification of the treaties, and myself, all concurred in the opinion, that the Louisiana cession treaties transcended the constitutional powers of the government of the United States. But it was, after all, a question of constructive power. The power of making the treaty was expressly given without limitation. The sweeping clause, by which all powers necessary and proper for carrying into effect those expressly delegated, *may* be understood as unlimited. It is to be presumed, that, when Mr. Jefferson approved and executed the acts of congress assuming the doubtful power, he had brought his mind to acquiesce in this somewhat latitudinarian construction. I opposed it as long and as far as my opposition could avail. I acquiesced in it after it had received the sanction of all the organized authority of the union, and the tacit acquiescence of the people of the United States and of Louisiana. Since which time, I have considered the question as irrevocably settled.

"But, in reverting to the fundamental principle of all our constitutions, that obedience is *not* due to an unconstitutional law, and that its execution may be lawfully resisted, you must admit, that, had the laws of congress for annexing Louisiana to the union been resisted, by the authority of one or more of the states of the then existing confederacy, as *unconstitutional*, that resistance might have been carried to the extent of dissolving the union, and of forming a new confederacy; and that, if the consequences of the cession had been so oppressive upon New England and the north, as was apprehended by the federal leaders

to whose conduct at that time all these observations refer, the project which they did then form of severing the union, and establishing a northern confederacy, would, in their application of the abstract principle to the existing state of things, have been justifiable. In *their* views, therefore, I impute to them nothing which it could be necessary for them to disavow: and, accordingly, these principles were distinctly and explicitly avowed, eight years afterwards, by my excellent friend, Mr. Quincy, in his speech upon the admission of Louisiana, as a state, into the union. Whether he had any knowledge of the practical project of 1803 and 4, I know not; but the argument of his speech, in which he referred to my recorded opinions upon the constitutional power, was an eloquent exposition of the justifying causes of that project, as I had heard them detailed at the time. That project, I repeat, had gone to the length of fixing upon a military leader for its execution; and although the circumstances of the times never admitted of its execution, nor even of its full development, I had yet no doubt, in 1808 and 1809, and have no doubt at this time, that it is the key to all the great movements of these leaders of the federal party in New England, from that time forward, till its final catastrophe in the Hartford convention. * * *

"It was this project of 1803 and 4, which, from the time when I first took my seat in the senate of the United States, alienated me from the secret councils of those leaders of the federal party. I was never intimated in them. I approved and supported the acquisition of Louisiana; and from the first moment that the project of separation was made known to me, I opposed to it a determined and inflexible resistance. * * * My principles do not admit the right even of the people, still less the legislature of any one state in the union, to secede at pleasure from the union. No provision is made for the exercise of this right, either by the federal or any of the state constitutions. The act of exercising it, presupposes a departure from the principle of compact, and a resort to that of force.

"If, in the exercise of their respective functions, the legislative, executive, and judicial authorities of the union on one side, and of one or more states on the other, are brought into direct collision with each other, the relations between the parties are no longer those of constitutional right, but of independent force. Each party construes the compact for itself. The constructions are irreconcilable together. There is no umpire between them; and the appeal is to the sword, the ultimate arbiter of right between independent states, but not between the members of one body politic. I therefore hold it as a principle without exception, that whenever the constituted authorities of a state authorize resistance to any act of congress, or pronounce it unconstitutional, they do thereby

declare themselves and their state *quoad hoc* out of the pale of the union. That there is no supposable case in which the *people* of a state might place themselves in this attitude, by the primitive right of insurrection against oppression, I will not affirm: but they have delegated no such power to their legislatures or their judges; and if there be such a right, it is the right of an individual to commit suicide—the right of an inhabitant of a populous city to set fire to his own dwelling house. But to those who think that each state is a sovereign judge, not only of its own rights, but of the extent of powers conferred on the general government by the people of the whole union; and that each state, giving its own construction to the constitutional powers of congress, may array its separate sovereignty against every act of that body transcending this estimate of their powers—to say of men holding these principles, that, for the ten years from 1804 to 1814, they were intending a dissolution of the union, and the formation of a new confederacy, is charging them with nothing more than with acting up to their own principles.”

Mr. Adams then proceeds to say: “To the purposes of party leaders intending to accomplish the dissolution of the union and form a new confederacy, two postulates are necessary: First, an act or acts of congress which may be resisted, as *unconstitutional*; and, secondly, a state of excitement among the people of one or more states of the union, sufficiently inflamed to produce acts of the state legislatures conflicting with the acts of congress. Resolutions of the legislatures denying the powers of congress, are the first steps in this march to disunion; but they avail nothing without subsequent and corresponding action. The annexation of Louisiana to the union was believed to be unconstitutional; but it produced no excitement to resistance among the people. Its beneficial consequences to the whole union were soon felt, and took away all possibility of holding it up as the labarum of a political religion of disunion.

“The projected separation met with other disasters, and slumbered till the attack of the Leopard on the Chesapeake, followed by the orders in council of 11th November, 1807, led to the embargo of the 22d December of that year. The first of these events brought the nation to the brink of war with Great Britain; and there is good reason to believe that the second (the orders in council) was intended as a measure familiar to the policy of that government, to sweep our commerce from the ocean, carrying into British ports every vessel of ours navigating upon the seas, and holding them, their cargoes, and their crews in sequestration, to aid in the negotiation of Mr. Rose, and bring us to the terms of the British Cabinet. This was precisely the period at which the governor of Nova Scotia was giving to his correspondent in Massachusetts, the friendly warning from the British government of the revolutionizing and conquer-

ing plan of France, which was communicated to me, and of which I apprised Mr. Jefferson.

"The embargo, in the mean time, had been laid, and had saved most of our vessels and seamen from the grasp of the British cruisers. It had rendered impotent the British orders in council; but at the same time it had choked up the channels of our own commerce. As its operation bore with heavy pressure upon the commerce and navigation of the north, the federal leaders soon began to clamor against it; then to denounce it as unconstitutional; and then to call upon the *commercial states* to concert measures among themselves to resist its execution. The question made of the constitutionality of the embargo, only proved, that, in times of violent popular excitement, the clearest delegation of a power to congress will no more shield the exercise of it from a charge of usurpation, than that of a power the most remote, implied or constructive. The question of the constitutionality of the embargo was solemnly argued before the district court of the United States at Salem; and although the decision of the judge was in its favor, it continued to be argued to the juries; and even when silenced before them, was in the distemper of the times so infectious, that the juries themselves habitually acquitted those charged with the violation of that law. There was little doubt, that, if the constitutionality had been brought before the state judiciary of Massachusetts, the decision of the court would have been *against* the law.

"The first postulate for the projectors of disunion was thus secured. The second still lingered; for the people, notwithstanding their excitement, still clung to the union, and the federal majority in the legislature was very small. Then was brought forward the first project for a convention of delegates from the New England states to meet in Connecticut; and then was the time at which I urged, with so much earnestness, by letters to my friends at Washington, the substitution of the non-intercourse for the embargo.

"The non-intercourse was substituted. The arrangement with Mr. Erskine soon after ensued; and in August, 1809, I embarked upon a public mission to Russia. My absence from the United States was of eight years' duration; and I returned to take charge of the state department in 1817. The rupture of Mr. Erskine's arrangement; the abortive mission of Mr. Jackson; the disclosures of Mr. John Henry; the war with Great Britain; the opinion of the judges of the supreme court of Massachusetts that, by the constitution of the United States, no power was given either to the president or to congress, to determine the actual existence of the exigencies upon which the militia of the several states may be employed in the service of the United States; and the Hartford convention;—all

happened during my absence from this country. I forbear to pursue the narrative. The two postulates for disunion were nearly consummated. The interposition of a kind Providence, restoring peace to our country and to the world, averted the most deplorable of catastrophes, and turning over to the receptacle of things lost upon earth, the adjourned convention from Hartford to Boston extinguished (by the mercy of Heaven may it be forever !) the projected New England confederacy.

"It is not improbable, that, at some future day, a sense of solemn duty to my country may require me to disclose the evidence which I do possess, and for which you call. But of that day the selection must be at my own judgment; and it may be delayed till I myself shall have gone to answer for the testimony I may bear, before the tribunal of your God and mine. Should a disclosure of names even then be made by me, it will, if possible, be made with such reserve, as tenderness to the feelings of the living, and to the families and friends of the dead may admonish."

Mr. Adams having stated in his reply, that "it would have been more satisfactory to him to receive the inquiry separately from each individual," and having intimated that he should not continue correspondence with them *jointly*, the thirteen "citizens of Massachusetts" address their rejoinder "to the citizens of the United States." Their "appeal" is a very long as well as a very able one; and however conclusive to Mr. Adams may have been the evidence of a design to separate from the union, a perusal of the appeal can hardly fail to remove from the mind of an impartial reader, any suspicion which he might have entertained, that these gentlemen were justly chargeable with the designs imputed by Mr. Adams to "*certain leaders*" of the federal party in Massachusetts.

The charge so often made against the state of Massachusetts of designs hostile to the union, the appeal pronounces a "calumny;" and the writers, in vindicating themselves and the federal party, claim it as a right to demand of their accuser the grounds of the accusation. They do not see any good reason why by their uniting with each other in their application, Mr. Adams should be authorized to disregard their claim. And although they did not arrogate to themselves the title of "leaders," yet having "avowed such a close political connection with all who could probably have been included in that appellation, as to render them responsible for all their political measures that were known to them," they were interested, and entitled to make this demand of Mr. Adams; and by declining to answer their interrogatories, he had placed himself in the predicament of an *unjust accuser*.

In speaking of the project to dissolve the union, so far as it applied to the men who directed the affairs of Massachusetts, and to the measures adopted, these gentlemen said it "probably existed only in the

distempered fancy of Mr. Adams." The object of the letter of the governor of Nova Scotia, he supposed, was to accredit a calumny, that Mr. Jefferson and his measures were subservient to France. The British government had been informed that France intended to conquer the British provinces on this continent, and effect a revolution in the government of the United States; in order to which, a war was to be produced between the United States and England. They said: "A letter of this tenor was no doubt shown to Mr. Adams, as we must believe upon his word. The discovery would not be surprising, that the British as well as French officers and citizens, in a time of peace with this country, availed themselves of many channels for conveying their speculations and stratagems to other innocent ears as well as to those of Mr. Adams, with a view to influence public opinion. But the subject matter of the letter was an absurdity. Who did not know, that, in 1807, after the battle of Trafalgar, the crippled navy of France could not undertake to transport even a single regiment across the British channel? And if the object was the conquest of the British provinces by the United States alone, how could a revolution in our government, which must divide and weaken it, promote that end?"

"The folly of a British governor in attempting to give currency to a story which savors so strongly of the burlesque, can be equalled only by the credulity of Mr. Adams in believing it calculated to produce effect; and if he did so believe, it furnishes a criterion by which to estimate the correctness and impartiality of his judgment concerning the weight and the application of the other evidence which he still withholds, and from which he has undertaken, with equal confidence, to draw his inferences.' After the adjustment of the diplomatic preliminaries with Mr. Giles and others, Mr. Adams communicated NOTHING to Mr. Jefferson, but the substance of the Nova Scotia letter. If Mr. Adams had then known and believed in the 'project,' (the 'key' to all future proceedings,) it is incredible that it should not have been deemed worthy of disclosure—at that time, and on that occasion."

In their examination of the alleged project of 1803 and 4, they say: "In the first place, we solemnly disavow all knowledge of such a project, and all remembrance of the mention of it, or of any plan analagous to it, at that or any subsequent period. Secondly, while it is obviously impossible for us to controvert evidence of which we are ignorant, we are well assured it must be equally impossible to bring any facts which can be considered evidence to bear upon the designs or measures of those who, at the time of Mr. Adams' interview with Mr. Jefferson, and afterwards, during the war, took an active part in the public affairs of Massachusetts.

“The effort discernible throughout this letter, to connect those later events, which were of a public nature, and of which the natural and adequate causes were public, with the mysterious project known only to himself, of an earlier origin and distinct source, is in the last degree violent and disingenuous.

“The cession of Louisiana to the United States, when first promulged, was a theme of complaint and dissatisfaction in this part of the country. This could not be regarded as factious or unreasonable, when it is admitted by Mr. Adams, that Mr. Jefferson and himself entertained constitutional scruples and objections to the provisions of the treaty of cession. Nothing, however, like a popular excitement grew out of the measure; and it is stated by Mr. Adams, that this project ‘*slumbered*’ until the period of the embargo, in December, 1807. Suppose then, for the moment, (what we have not a shadow of reason for believing, and do not believe,) that upon the occasion of the Louisiana treaty, ‘certain leaders,’ influenced by constitutional objections, (admitted to be common to Mr. Jefferson, Mr. Adams, and themselves,) had conceived a project of separation, and of a northern confederacy, as the only probable counterpoise to the manufacture of new states in the south, does it follow that, when the public mind became reconciled to the cession, and the beneficial consequences of it were realized, (as it is conceded by Mr. Adams was the case,) these same ‘leaders,’ whoever they might be, would still cherish the embryo project, and wait for other contingencies to enable them to effect it? On what authority can Mr. Adams assume that the project merely ‘*slumbered*’ for years, if his private evidence applies only to the time of its origin?

“The opposition to the measures of government in 1808, arose from causes which were common to the people, not only of New England, but of all the commercial states, as was manifested in New York, Philadelphia, and elsewhere. By what process of fair reasoning, then, can that opposition be referred to, or connected with, a plan which is said to have originated in 1804, and to have been intended to embrace merely a *northern* confederacy? It was believed in New England, that new members could not be added to the confederacy beyond the territorial limits of the contracting parties, without the consent of those parties. This was considered as a fair subject of remonstrance, and as justifying proposals for an amendment of the constitution. But so far were the federal party from attempting to use this as an additional incentive to the passions of the day, that, in a report made to the legislature of 1813, by a committee of which Mr. Adams’ ‘excellent friend,’ Josiah Quincy, was chairman, (Louisiana having at this time been admitted into the union,) it is expressly stated, that ‘they have not been disposed

to connect this great constitutional question with the transient calamities of the day, from which it is in their opinion apparently distinguished, both in its cause and consequence.' ”

They next refer to the embargo, the pretexts for which, they say, were deemed by the people of Massachusetts a mockery to their sufferings. Owning nearly one-third of the tonnage of the United States, they felt that their voice ought to be heard in what related to its security. Depending chiefly on their foreign trade and fisheries for support, their situation appeared desperate. They could not consider the *annihilation* of their trade as included in the power to regulate it. To the lawyers, statesmen, and citizens of Massachusetts, the embargo law appeared a direct violation of the constitution. War followed, and aggravated the public distress. The state was deprived of garrisons for her ports, and was left during the war nearly defenseless; her citizens subject to incessant alarm; her territory invaded; her own militia arrayed, and encamped at an enormous expense; pay and subsistence from her nearly exhausted treasury, and reimbursement refused even to this day.” Having thus described the condition of the state, the address proceeds:

“ Now, what, under the pressure and excitement of these measures, was the conduct of the federal party, with the military force of the state in their hands; with the encouragement to be derived from a conviction that the northern states were in sympathy with their feelings? Did they resist the laws? Not in a solitary instance. Did they threaten a separation of the states? Did they array their forces with a show of such a disposition? Did the government or people of Massachusetts, in any one instance, swerve from their allegiance to the union? The reverse of all this is the truth. Abandoned by the national government, because she declined, for reasons which her highest tribunal adjudged to be constitutional, to surrender her militia into the hands of a military prefect, although they were always equipped, and ready and faithful under their own officers, she nevertheless clung to the union as to the ark of her safety; she ordered her well trained militia into the field; stationed them at the points of danger; defrayed their expenses from her own treasury; and garrisoned with them her national forts. All her taxes and excises were paid with punctuality and promptness, an example by no means followed by some of the states, in which the cry for war had been loudest. These facts are recited for no other purpose but that of preparing for the inquiry, what becomes of Mr. Adams’ ‘key,’ his ‘project,’ and his ‘postulates?’ The latter were to all intents and purposes, to use his own language, ‘consummated.’

“ Laws unconstitutional in the public opinion had been enacted. The great majority of an exasperated people were in a state of the highest

excitement. The legislature, (if his word be taken,) was under 'the management of the leaders.' The judicial courts were on their side; and the juries were, as he pretends, contaminated. All the combustibles for revolution were ready. When, behold! instead of a dismembered union, military movements, a northern confederacy, and British alliance, accomplished at the favorable moment of almost total prostration of the credit and power of the national rulers, a small and peaceful deputation of grave citizens, selected from the ranks of civil life, the legislative councils, assembled at Hartford. There, calm and collected, like the pilgrims from whom they descended, and not unmindful of those who achieved the independence of their country, they deliberated on the most effectual means of preserving for their fellow-citizens and their descendants the civil and political liberty which had been won, and bequeathed to them."

The "appeal" then enters into a defense of that convention, which, it is alleged, "has been subjected to heavier imputations, under an entire deficiency, not only of proof, but of probability, than ever befel any other set of men, discharging merely the duties of a committee of a legislative body, and making a public report of their doings to their constituents. These imputations have never assumed a precise form; but vague opinions have prevailed of a combination to separate the union."

The grounds on which the convention was defended, are :

First, the constitutional right of a state to appoint delegates to such a convention. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good, and to request of their rulers, by address, petition, or remonstrance, a redress of wrongs and grievances.

Secondly, the propriety and expediency of exercising that right at that time. The grievances suffered and the dangers apprehended, and the strong excitement which they produced among all the people, rendered some measures for their relief indispensably necessary.

Thirdly, the objects intended to be attained by it, and the powers given for that purpose, by the state to the delegates. The excitement was great, amounting almost to desperation. It was thought the measures called for would be more prudently and safely conducted by the government of the state, than by unorganized bodies of individuals, excited by what they considered unjust and oppressive measures of the general government. No secret action was taken on the subject by the legislature. The resolution for appointing the delegates and prescribing their powers and duties, was openly discussed and passed; and a copy of it was sent to the governor of every state in the union.

Fourthly, the manner in which the delegates exercised their power. This appears from their report, which was immediately published, and which set forth and enforced, by elaborate reasoning, the paramount importance of the union; and there was no just ground for imputing to them covert and nefarious designs. The main and avowed object of the convention was the defense of this part of the country against the common enemy. New England was destitute of national troops; her treasures were exhausted; and her taxes drawn into the national coffers.

The appeal says farther: "The burden of that report consisted in recommending an application to congress to permit the states to provide for their own defense, and to be indemnified with the expense, by reimbursement, of at least a portion of their own money. This convention adjourned early in January. On the 27th of the same month, an act of congress was passed, which gave to the state governments the very power which was sought by Massachusetts, viz: that of raising, organizing, and officering state troops, to be employed in the state raising the same, or in an adjoining state, and providing for their pay and subsistence. This, we repeat, was the most important object aimed at by the institution of the convention, and by the report of that body. * * * It is indeed grievous to perceive Mr. Adams condescending to intimate that the convention was adjourned to Boston, and, in a strain of rhetorical pathos, connecting his imaginary plot, then at least in the thirteenth year of its age, with the catastrophe which awaited the ultimate proceedings of the convention. That assembly adjourned *without day, after making its report*. It was *ipso facto* dissolved, like other committees. One of its resolutions did indeed purport, that 'if the application of these states to the government of the United States should be unsuccessful, and peace should not be concluded, and the defense of these states should be neglected as it has been since the commencement of the war, it will be, in the opinion of this convention, expedient for the legislatures of the several states, to appoint delegates to *another convention*, to meet at Boston on the third Tuesday of June next, with such powers and instructions as the exigency of a crisis so momentous may require.'"

The "appeal" concludes as follows: "The causes of past controversies, passing, as they were, to oblivion, among existing generations, and arranging themselves, as they must do, for the impartial scrutiny of future historians, the revival of them can be no less distasteful to the public than painful to us. Yet it could not be expected, that while Mr. Adams, from his high station sends forth the unfounded suggestions of his imagination or his jealousy, as materials for present opinion and future history, we should, *by silence*, give countenance to his charges; nor

that we should neglect to vindicate ourselves, our associates, and our fathers."

These extracts from the letter of Mr. Adams, and the appeal of his opponents, have been extended to great length: they are, however, not more copious than justice to the parties seemed to require. Scarcely ever has there been in this country a political excitement so incessant and so intense, and for an equal period of time, as from 1807 to 1814. No political assembly ever obtained a more odious notoriety than the Hartford convention. It was extensively believed at the time, and is by many even at this day, to have had treasonable designs. Facts and circumstances existed which afforded ground for the suspicions so generally entertained. It is, however, but just to say, that no evidence has ever been elicited upon which that convention can be convicted of intentions hostile to the union.

But the sequel to this controversy has not yet been given. William Plumer, a senator in congress from New Hampshire in 1803 and 1804, in a letter to Mr. Adams of the 20th of December, 1828, states, that, during that session of congress, several federalists, senators, and representatives, from the New England States, informed him, at different times and places, that they thought it necessary to establish a separate government in New England. He says: "Just before that session of congress closed, one of the gentlemen to whom I have alluded, informed me that arrangements had been made to have the next autumn, in Boston, a select meeting of the leading federalists in New England, to consider and recommend the measures necessary to form a system of government for the northern states, and that Alexander Hamilton, of New York, had consented to attend that meeting." And he says farther, that the gentlemen who had informed him of the contemplated meeting, told him at the next session of congress, that the death of Mr. Hamilton had prevented the meeting, but the project was not and would not be abandoned. Mr. Plumer adds:

"I owe it to you as well as to myself, to state explicitly, that in the session of congress in the winter of 1803 and 1804, I was myself in favor of forming a separate government in New England, and wrote several confidential letters to a few of my friends and correspondents recommending the measure. But afterwards, upon maturely considering the subject, I was fully convinced that my opinion in favor of separation, was the most erroneous that I ever formed upon political subjects. * * * When the same project was revived in 1808 and 1809, during the embargo and non-intercourse, and afterwards, during the war of 1812, I used every effort in my power, both privately and publicly, to defeat the attempt then made to establish a separate independent government in the northern states."

Mr. Adams having said in his letter to the federalists, that "this plan had been so far matured that the proposal had been made to an individual to permit himself at the proper time to be placed at the head of the military movements which it was foreseen would be necessary for carrying it into execution;" and Mr. Plumer having named Mr. Hamilton as that individual, James A. Hamilton addressed Mr. Adams, inquiring whether he was in possession of any evidence of his father's having consented to attend the alleged meeting at Boston, or been concerned in a project to effect the dissolution of the union and the establishment of a northern confederacy.

In reply, Mr. Adams says he received his information, to the best of his recollection, from Uriah Tracy, then a senator from Connecticut, or from another member of congress who was present, both since deceased. And after the close of the session, being at New York, he was informed by Rufus King, that a person had that day conversed with him and also with Mr. Hamilton's father, in favor of the project, but that both had disapproved of it. Mr. Adams expressed his belief in the statement of Mr. Plumer; but from the information given him by Mr. King, he believed that, in consenting to attend the meeting, Mr. Hamilton's purpose was to dissuade the parties concerned from the undertaking. He also declared the belief, that the project had been continued or resumed until the time of the meeting of the Hartford convention, in 1814.

On the appearance of this letter of Mr. Adams, Judge Gould, of Connecticut, son-in-law of Mr. Tracy, addressed certain questions to James Hillhouse, co-senator with Mr. Tracy, and to the other surviving members of congress in 1803 and 1804, John Davenport, John Cotton Smith, S. Baldwin, B. Tallmadge, and Calvin Goddard, who were familiar and confidential friends of Mr. Tracy, and of the same political party; and who declared in their answers to Judge Gould, that Mr. Tracy had never spoken to them of the alleged project; nor had they any reason to believe that such a project had ever existed.

Judge Gould transmitted these letters to the New York Evening Post for publication, accompanied by a letter of his own to the editor, containing a caustic review of the disclosures of Mr. Adams. He says: "It is particularly worthy of observation, that Mr. Adams' disclosures against the federal party, in the form in which he has chosen to present them to the public, are, even if untrue, absolutely incapable of direct disproof or positive contradiction. This remark is equally applicable to all the statements which have been published on this subject, under his name or avowed sanction. * * * Thus, although he has implicated in his project an important, and as he represents it, a formidable portion of the federal party, yet as he has avoided, except in a single instance, (which

did not require it,) the mention of any one individual *by name*, he has secured to himself the very convenient resource of exculpating, in *detail*, every one whom it may be hazardous to accuse or prudent to conceal, while he repeats the accusation against them *collectively*. * * *

"As regards Mr. Tracy, whom *only* of the whole federal party, Mr. Adams has vouchsafed to name, it may be proper to state, that he has now been in his grave for nearly twenty-two years. The 'other member of congress' who is alleged to have been present at one of the conversations between Mr. Tracy and Mr. Adams, happens also to be *dead*, and is hitherto *nameless*. Whether there is any deep philosophy in Mr. Adams' apparent preference of dead and anonymous to living and known authority, which might confront him, I can not presume to determine. But as 'dead men,' according to the proverb, '*tell* no tales,' so on the other hand, they can *contradict* none.

"Mr. Tracy, it is well known, was a man of unusual tact and address, in all situations, and a most acute judge of the *characters* of men. He was also early and well acquainted with Mr. Adams, and was not ignorant of the strength and obduracy of his personal resentments and antipathies. He knew, moreover, what many perhaps at that time did not—the terms on which Mr. Adams stood with Mr. Hamilton. The brilliant and exalted character of that great man had long been, to the house of Braintree, an object of deep jealousy and resentment. 'Under him,' Mr. Adams had felt his 'genius rebuked,' and of all mankind (not excepting even Mr. Ames or Col. Pickering himself,) Mr. Hamilton was to Mr. Adams probably the most odious. In the *hereditary* and cherished antipathies of Mr. Adams, Mr. Hamilton, it is believed, had no rival. All this Mr. Tracy well knew; and that a man like him, in the exercise of his understanding, should have hoped to obtain the accession of such a man as Mr. Adams to the 'project' of the federal leaders, by proposing a measure which *he knew would be most revolting to Mr. Adams' whole soul*; that he should have proposed Mr. Hamilton as the leader of a great public enterprise to Mr. John Q. Adams, is, modestly speaking, something *strange*. It is a little singular, also, that Mr. Tracy should have made Mr. Adams the depository of so important a state secret, while his lips were absolutely *sealed* upon the subject to his long tried, best known, and most intimate political friends and associates, whose accession to the project, if any such existed, must certainly have been contemplated by him. The survivors of the Connecticut delegation were not only his political, but his personal friends. He and they were uniformly advocates of one and the same political system. With most of them from his youth, and with all of them, long before the year 1804, he was in habits of the freest and most confidential com-

munication on all subjects connected with public affairs. And that he should so guardedly have concealed this same project from *all* those gentlemen, as not to give the slightest intimation of it to any one of them, while he divulged it so unreservedly to Mr. John Q. Adams, of Massachusetts, must be a little puzzling to ordinary understandings."

Mr. Plumer having been requested by James A. Hamilton, to give the name of the person who informed him of his father's connection with the project referred to in the letter of Mr. Plumer, replied on the 11th of April, 1829, saying that he had "*made no charge or accusation against Gen. Hamilton;*" he had simply stated that a member of congress, at the session of 1803-4, *informed* him that the general had *consented* to attend the meeting. He however declined giving the name of his informant: in relation to which Mr. Hamilton observes:

"As this affair now stands, Mr. Adams may still consider himself entitled to the benefit of this witness, which he would undoubtedly lose, if a free examination were submitted to; and aware how important it was to sustain Mr. Plumer's credibility, Mr. Adams has endorsed his statement, and tendered him a certificate of respectability. * * * * The credibility of the associate witness must be sustained, regardless of the reputation and honor of the accused; the charge of treason must be fixed somewhere, and the stamp of infamy, if possible, made indelible. This mighty project to dismember the union, seems only to be known to John Q. Adams and William Plumer; the late president resorting to the dead to bear him testimony, while the former governor of New Hampshire dare not trust the living or the dead. In 1804, Mr. Adams, by his own admission, knew that Gen. Hamilton advocated the union; in 1828, in his reply to the Boston federalists, he asserts that he was fixed on as the military leader *to carry the plan of disunion into execution*; and on the 6th of March, 1829, he most graciously affects to believe that Gen. Hamilton entertained no treasonable or disloyal views."

Mr. Hamilton accompanies his letter to the Evening Post with the declarations of nine members of the congress of 1803-4, intimate friends and associates of Mr. Plumer, disclaiming all knowledge of any suggestion made at that time, and avowing their disbelief that Gen. Hamilton gave any countenance to a separation of the states, or consented to attend a meeting for that purpose.

CHAPTER XXXV.

ANOTHER ALLEGED ATTEMPT TO DIVIDE THE UNION.

ALMOST simultaneously with the Giles and Adams controversy, and the publication of the letter of Mr. Jefferson and Mr. Adams' own statement in relation to the alleged designs of disunion, and the establishment of a northern confederacy, an "important development" was announced in the southern papers disclosing the incipient steps to have been taken by leading southerners in an abortive attempt to sever their political connection with the government.

In October succeeding the passage of the tariff of 1828, which produced such excitement at the south, a writer, under the signature of "Union," in a South Carolina paper, propounded to the members of congress from that state, the following questions, which, he stated, "if answered in the negative, might have a tendency to change the opinions of at least a portion of the people of the state as respected the nature of the opposition to the tariff, inculcated by a few of the Jacksonites of South Carolina."

"1st. Was there not a meeting of the delegation of this state held in Washington city, in the house of one of our senators, a few nights after the passage of this tariff law, the object of which was (as it was said) to consult upon measures best to be adopted and pursued as it regards this law?

"2d. At this meeting, were there not one or more members deputed to wait upon and consult with the respective delegations from the southern states, and to obtain, if possible, their coöperation? Did this deputation not undertake the mission, and totally fail in the object for which it was appointed? If it did, was it not then proposed by one or more leading members of the assembly, that the whole of the members assembled should immediately abandon their seats in congress, return home, and thereby end all further political connection with the government?

"3d. Was this proposition not abandoned by the meeting, in consequence of one or more of the prudent members objecting to take upon themselves the burden of the great responsibility, which would have been the consequence of such a step?

"Lastly. Was the night consultation not ended by a majority of the members finally determining, that, although they would await the adjournment of congress, yet that, upon their arrival home, they would

each visit their constituents generally, and among them make every effort to inculcate such doctrines and principles as would induce the people of the states to agree to and advocate a separation of the states?"

To the allegations implied in these interrogatories, Mr. Hayne, the senator in whose house the meeting was said to have been held, made a positive denial. He said in his reply: "It is true, that, during the last session of congress, consultations were held, among the members of the South Carolina delegation on the subject of the tariff. Such consultations have, as I believe, been usual in all cases affecting, in a peculiar degree, the interests of particular states; and the members of this state would, in my opinion, have been wanting in their duty if they had not most earnestly and anxiously taken into consideration, on the passage of the tariff law, whether any thing remained to be done by them in their representative capacity in relation to that matter. Such, I aver, was the sole object of a meeting held at my house in Washington, immediately after the passage of that law—a meeting rendered indispensably necessary, by a question which had been discussed among some of the southern members, (but which I think did not originate with any member of our delegation,) viz: whether a protest against the law, to be signed by all the members from the anti-tariff states, to be entered on the journals of the two houses of congress, and transmitted to the executives of the several states, might not be an expedient measure. The subject of such a protest was fully discussed without being brought to any conclusion, further than that a free interchange of opinions in relation to it should take place among the representatives of the anti-tariff states; the final result of which was the abandonment of the scheme by common consent, as one not only of doubtful policy, but concerning which there existed too great a difference of opinion to justify its adoption."

On reading this denial on the part of Mr. Hayne, Thomas R. Mitchell, a representative from the same state, who had made to some of his confidential constituents, statements in respect to the meeting referred to, which were impugned by the letter of Mr. Hayne, replied to the same, substantially confirming the implied allegations of the writer above mentioned. Addressing Mr. Hayne directly he says:

"And will you deny, sir, that, after all the southern delegations except Georgia had positively refused to unite with us in such a protest as was thought effectual by you and others, that a proposition was made by one of your members, that we should formally secede from congress, return home, and say to our constituents, that our services were no longer of any use? That when this proposition was made, it was immediately opposed by Col. Drayton, who at once declared that he would

not concur, as the act thus performed would be unconstitutional, and would not be sanctioned by his constituents? I can not, sir, be mistaken in this statement. The proposition excited feelings too strong to be forgotten. I thought if it were adopted, that I should be placed in the most trying of all situations. To remain alone at Washington, in opposition to the views of the whole delegation, would be assuming a fearful responsibility; to shrink from that responsibility, and yield to their views in opposition to my own, would be contemptible weakness. Besides, what was to result from it? What was to be the fate of the people whom we represented? Imagination shuddered at the prospect. These were my feelings—these were the ideas which the proposition called forth. And I have never in my life been more relieved than when it was immediately put down by Col. Drayton.

“Again, sir, will you deny that a proposition was made, that we should, on our return home, communicate by letter, or otherwise, with the principal men of our respective districts, on the subject of the tariff; explain to them the fatal effects on their trade and agriculture; and its aggression on the sovereignty of the state? Further, that it was proposed, that we should, during the summer, communicate to each other, by letter, the state of feeling which we discovered in our respective districts? And finally, that the delegation should meet at Columbia in October or November, for the purpose of devising and maturing some plan of action for the state governments? Do you not remember that one gentleman (Mr. M'Duffie,) did say; that, in his opinion, there was no other remedy for the evil than a separation of the state from the union; that temporizing measures would prove unavailing; and that he, himself, was prepared to go all lengths? And when it was remarked that his constituents might not approve such a measure, did he not reply with an exclamation, that he would not then represent them? that he considered his services in congress as an obligation conferred on them; and that, whenever they failed to support his great views on the affairs of the union, he would abandon them? To this, did you not reply, that others were as ready to make sacrifices as he could be?

“Further, when it was observed, that Mr. M'Duffie's plan was ill-advised, because the United States' government would force the state to submission, (she, single-handed, not having the power to resist,) did you not ask, where were the means of the general government to coerce the state? That the standing army was no more than a handful of men—nothing could be feared from it? That, with regard to the militia, no southern militia, if called out by the president, would take arms against our people; and that the northern militia would not be permitted by Virginia and North Carolina to pass through their territories for the

purpose of subjecting South Carolina ? Finally, after all attempts to obtain a coöperation of the southern delegations had failed—after one of our most influential members (Mr. Senator Smith) had peremptorily refused to attend, and unanimity was not found to exist even among those who were present, was it not then that you proposed to abandon all the foregoing plans, lest any increase of excitement in South Carolina might prove injurious to the election of Gen. Jackson ?

“ On the adjournment of the meeting, I called on senator Smith, related what had transpired, and remarked, that the delegation had been saved by the wisdom and firmness of Col. Drayton. With regard to the views of yourself and others, I could say nothing. Having never respected either the principles or course of the Calhoun party, I was not in your confidence, and was therefore left to mere conjecture as to what your motives were, and what your ulterior projects might be. In this public development I have not volunteered ; you have forced me to it.”

To this Col. Hayne rejoined in an attempt to disprove the statement of Mr. Mitchell, and introduced as testimony letters of several of the members of that state. It was, however, admitted and proved, that the question was discussed of presenting to the house a protest from the delegations of the anti-tariff states : That it was proposed, that, when the delegates went home, they should by letter communicate to each other the feelings and sentiments of the people within their districts upon the subject of the tariff ; and that they should endeavor to prevent the expression of public opinion on this subject until after the election : That the delegation should assemble at Columbia, at the commencement of the session of the legislature, to give to the members of that body any information respecting the tariff that might be desired. That Maj. Hamilton declared his purpose to go home, surrender his commission, and not return to congress, unless directed by his constituents ; from which purpose he was dissuaded by Col. Drayton : That the effects of a dissolution of the union were discussed : That Maj. Hamilton said, if South Carolina should be driven from the union by the restrictive policy, the government could not enforce it ; as the regular army was too small to create apprehensions, and Virginia and North Carolina would never permit northern militia to pass through their territories to reduce South Carolina to subjection.

Although the testimony adduced by Col. Hayne, if correct, acquits the accused of the worst designs imputed to them ; yet, from the facts admitted, it was easy and natural for Mr. Mitchell to infer all he charged upon them ; and the more so from their having been, as Maj. Hamilton confessed, “ under a very high degree of excitement at this new act of

injustice." Only a few years after, the right of secession and of nullification was the current and almost universal doctrine in South Carolina, in which these gentlemen, it is presumed, all concurred, and of which they determined to give a practical exemplification by a forcible resistance to the laws of the union.

CHAPTER XXXVI.

RISE AND PROGRESS OF THE ANTI-MASONIC PARTY.

In September, 1826, an event occurred which gave rise to a new political party. William Morgan, of Batavia, Genesee county, New York, having written for publication a work alleged to contain a disclosure of the secrets of free-masonry, and which was about to be issued from the press of David C. Miller, was apprehended under color of a criminal process, and conveyed to Canandaigua, in the county of Ontario, where, upon examination before a magistrate, he was discharged. He was subsequently arrested, on the same day, upon a demand against him; a judgment was obtained; and he was confined in the jail of the county. On the evening of the 12th of September, persons who had been concerned in his seizure and confinement, discharged the debt, and caused his liberation. On leaving the jail, he was forcibly taken, carried in a close carriage to the Niagara frontier, where he was last seen.

Several persons concerned in the outrage upon Morgan were arrested, and indicted, pleaded guilty to the indictments, and were imprisoned in the county jail at Canandaigua. A great excitement soon prevailed throughout the western part of the state.

At the next session of the legislature, petitions relating to the abduction of Morgan were presented, and referred to a select committee of the assembly; and a reward of \$1,000 was offered by Gov. Clinton for the discovery of Morgan, if alive; and if murdered, \$2,000 for the discovery of the offender or offenders; and a free pardon to any accomplice or coöperator who should make the discovery.

The committee of the legislature stated in their report, that the petitions set forth, that, after an examination before the magistrate at Canandaigua, Morgan was discharged. He was again immediately arrested upon a demand against him, and a judgment obtained, on which he was imprisoned in the county jail at that place. His friends discharged the debt on which he had been committed, and he was liberated

On leaving the jail he was seized, forced into a carriage, and conveyed to the Niagara frontier, where, as some of the petitioners alleged, he was murdered on the night of the 14th of September: and all expressed the belief, that the conspiracy extended through several of the western counties, and was the result of a previously concerted plan.

As the courts of a single county were deemed inadequate to the emergency, the interposition of the legislature was asked to procure a full development of the plot. The committee reported a resolution requesting the governor to offer a reward of \$5,000 for the discovery of Morgan, if living, and a like sum for the murderer or murderers, if dead; and another for the appointment of a joint committee of the two houses, to visit the counties from which and through which Morgan had been taken, to inquire into the facts and circumstances connected with the outrage, and to report their proceedings to the next legislature.

In the autumn of 1827, the body of a man was found on the shore of lake Ontario, which, from the testimony given on the coroner's inquest, the jury unanimously agreed, was the body of William Morgan. Upon a second examination, however, held some time afterward, a jury decided the body to be that of Timothy Monro, who had been upset in a skiff and lost in the mouth of Niagara river in September. His clothing, unseen by his widow and intimate friends since his death, were so minutely described, as to leave no doubt on the minds of the jurors. It was also testified by a physician, that the body, appearing to be only in the first stages of decomposition, could not be that of a person more than a year after drowning.

Bills of indictment were found against several persons who had participated in the abduction; two of whom, in 1829, were convicted and sentenced to imprisonment in the county jail, one for two years and four months, the other for one year and three months. The former was the sheriff of Niagara county, who as a witness on the trial of the latter, testified, that he had been apprised several days previously of the coming of Morgan, and had been requested to prepare a cell for him in the Niagara county jail at Lockport. It was proved that Morgan was taken through Rochester, and along the ridge road to Lewiston, being conveyed, blind-folded in a covered carriage, which was kept closed. From Lewiston he was taken in another carriage to the ferry near fort Niagara. Witness and four others crossed with him into Canada, in the night; their object being to get Morgan away from Miller into the interior of Canada, and place him on a farm. The expected preparation not having been made for his reception, he was brought back to this side of the river, to wait a few days, and was put into the magazine of the fort; since which the witness had not seen him.

The publication of Morgan's book was followed by that of others, claiming to be true revelations of the secrets of masonry; and many free masons seceded from the institution, and confirmed the published statements of its character and ceremonies, as well as the oaths and obligations of its members, some of which were inconsistent with their civil duties. It is not strange, therefore, that, with the suspicion previously existing in the minds of a large portion of the uninitiated against the order, this outrage upon the person of Morgan, which was believed to be in accordance with the laws of the institution, should soon raise against it a powerful opposition. Those who believed the members held their civil obligations subordinate to their obligations to each other, considered free masons unfit to hold civil offices.

Under the influence of this opinion, strengthened as it had been by the difficulty, in a few cases, of bringing criminals to justice where courts, sheriffs and witnesses were masons, the anti-masons soon began to unite to prevent the election of masons to town and county offices. Probably their object, as yet, contemplated merely the procuring of the nomination of persons not masons, by the existing political parties. A general convention was held at Le Roy, in March, 1828, in which twelve counties were represented. Its object appears to have been to direct the public attention to what was deemed a dangerous institution, and to excite against it a general opposition. It recommended a state convention to be held at Utica in August. The nomination of separate, independent candidates for state officers, was not, it is said, contemplated in calling the state convention. But the Adams party, then calling themselves "national republicans," in the hope of securing the support of the anti-masons, anticipated the convention of the latter, by calling their convention at an earlier day, and nominating men who were not masons. Smith Thompson, then a justice of the supreme court of the United States, was nominated for governor, and Francis Granger, a favorite of the anti-masons, for lieutenant governor.

Perceiving in this act of the national republicans no manifestation against masonry, the anti-masons did not respond to the nominations; but at their convention declared it expedient "wholly to disregard the two great political parties, and to nominate anti-masonic candidates for governor and lieutenant governor." Mr. Granger was accordingly nominated for governor, and John Crary for lieutenant governor, both of whom had taken an active part in procuring the aid of the legislature in bringing to justice the Morgan conspirators; the former being a member of the assembly, and the latter a senator.

Mr. Granger, however, declined the nomination, and accepted that of lieutenant governor tendered him by the national republicans, to the

great displeasure of the anti-masons; who supplied the place of his name with that of Solomon Southwick, who, though once a mason, had lately coöperated with the anti-masons in their attempts to overthrow the institution. In the selection of Mr. Southwick, the great body of the anti-masons did not concur, he having been nominated by a small convention at Le Roy. With few exceptions, however, they gave him their support at the election.

The election resulted in the choice of Mr. Van Buren, the Jackson candidate for governor, and Enos T. Throop for lieutenant governor. Mr. Van Buren received 136,794 votes; Judge Thompson, 106,444; and Mr. Southwick, 33,345.

From this time, a regular organization as a state anti-masonic party may be considered as having existence, embracing in its composition original Clintonians, (Mr. Clinton having united with the friends of Gen. Jackson,) and bucktails, as the party opposed to Mr. Clinton was called. As regarded national politics they had not yet made any declaration; a majority, however, were national republicans and friendly to Mr. Adams. Gen. Jackson being a mason, it was easy to foresee that they would eventually unite with the friends of the former, if with either of the two national parties.

The anti-masons prosecuted their object with such zeal and energy, as soon to place them in advance of the national republicans. They held a state convention in February, 1829; and at the election in November, they obtained majorities in the fourteen western counties, and in the county of Washington; and the senator of the 8th senate district was elected by an unprecedented majority. In February, 1830, another state convention was held in Albany, at which they decided to call a national convention, and a state convention to nominate candidates for governor and lieutenant-governor. At the convention, held at Utica in August, they declared their political principles, which were substantially the same as those of the national republicans. Mr. Granger, having regained their confidence and esteem, was nominated for governor, and Samuel Stevens for lieutenant governor. No nomination was made by the national republican party; and had this party, with entire unanimity, voted for Granger and Stevens, they would probably have been elected. A number sufficient to defeat the anti-masonic candidates, having a stronger attachment to masonry than to their political principles, joined the Jackson party, and gave the election to Mr. Throop, by a majority of 8,481 votes.

The cause of anti-masonry soon extended to other states. It acquired its greatest strength in New York, Vermont, Massachusetts, Pennsylvania, and Ohio. In some districts of these states, the anti-masonic

party had obtained the ascendancy, and in a considerable number of them, it became the most formidable rival of the dominant party. The sequel of its history will be given in a succeeding chapter.

CHAPTER XXXVII.

BATTLE OF NEW ORLEANS, AND THE SIX MILITIA MEN.—FUGITIVE SLAVES AND ABOLITION.—PRESIDENTIAL ELECTION.—ANTI-TARIFF PROTESTS.—INTERNAL IMPROVEMENT FUND.—PUBLIC LANDS IN INDIANA.

ON the 8th of January, 1828, Mr. Hamilton, of South Carolina, moved instructions to the committee on the library to inquire into the expediency of having an historical picture of the battle of New Orleans painted, and placed in one of the panels of the rotunda, and of engaging Washington Allston to design and finish the work. During the discussion of the resolution, which continued two days, sundry amendments were offered, principally by its opponents, with a view to embarrass its passage. The amendments proposed to add pictures of certain battles of the revolution, and naval battles during the late war with Great Britain. The question was taken at the close of the second day's debate, and decided in the negative : ayes, 98; noes, 103.

The resolution having been intended, as was presumed, for party effect, Mr. Sloane, of Ohio, from the other party, on the 11th of January, 1828, moved a resolution calling on the secretary of war to furnish the house with a copy of the proceedings of a court martial at Mobile, in December, 1814, by which six of the Tennessee militia men had been tried, convicted of insubordination and mutiny, and condemned to be shot; which sentence was carried into effect by order of Gen. Jackson. The resolution, after having been so amended as to embrace a great variety of other papers, letters, &c., relating to the subject, was adopted on the 16th of January; and on the 11th of February, the committee on military affairs, (Mr. Hamilton, chairman,) made a report on the subject, approving the proceedings of the court, and justifying the execution of the militia men. The report and accompanying documents were ordered to be printed, 108 to 69.

This affair of the militia men proved detrimental rather than availing to the administration party. Handbills giving unfavorable representations of the trial and execution of these men, "illustrated" with wood engravings of six coffins were extensively circulated. But the investigation

having resulted in the exculpation of Gen. Jackson, the "coffin hand-bills," as they were called, became rather an effective weapon in the hands of his friends against the inventors.

An attempt was made during Mr. Adams' administration to effect an arrangement with Great Britain for the surrender of fugitive slaves taking refuge in the Canadian provinces. By a resolution of the house of representatives, May 10, 1828, the president was requested to open a negotiation with the British government for this purpose. On the 15th of December, in compliance with a resolution of the 8th, the president transmitted to the house the correspondence between the secretary of state and Mr. Gallatin, our minister at London, and Mr. Barbour, his successor. The following is an extract from the instructions of Mr. Clay to Mr. Gallatin :

"If it be urged that Great Britain would make, in agreeing to the proposed stipulation, a concession without an equivalent, there being no corresponding class of persons in her North American continental dominions, you will reply :

"1st. That there is a similar class in the British West Indies, and, although the instances are not numerous, some have occurred of their escape, or being brought, contrary to law, into the United States.

"2dly. That Great Britain would probably obtain an advantage over us in the reciprocal restoration of military and maritime deserters, which would compensate any that we might secure over her in the practical operation of an article for the mutual delivery of fugitives from labor.

"3dly. At all events, the disposition to cultivate good neighborhood, which such an article would imply, could not fail to find a compensation in that, or in some other way, in the already immense and still increasing intercourse between the two countries. The states of Virginia and Kentucky are particularly anxious on this subject. The general assembly of the latter has repeatedly invoked the interposition of the government of the United States with Great Britain. You will, therefore, press the matter whilst there exists any prospect of your obtaining a satisfactory arrangement of it. Perhaps the British government, whilst they refuse to come under any obligation by treaty, might be willing to give directions to the colonial authorities to afford facilities for the recovery of fugitives from labor ; or, if they should not be disposed to disturb such as have heretofore taken refuge in Upper Canada, they might be willing to interdict the entry of any others in future."

These considerations were not deemed sufficiently weighty to induce the English government to make the desired concession.

A petition from the citizens of the District of Columbia, was presented to congress at the session of 1827-28, praying for the prospective

abolition of slavery in the district, and for the repeal of those laws which authorize the selling of supposed runaways for their prison fees or maintenance. The petitioners declare slavery among them, to be "an evil of serious magnitude, which greatly impairs the prosperity and happiness of the district, and to cast the reproach of inconsistency upon the free institutions established among us." They represent the domestic slave trade at the seat of the national government as "scarcely less disgraceful in its character, and even more demoralizing in its influence," than the foreign slave trade, which is declared piracy, and punishable with death. "Husbands and wives are separated; children are taken from their parents without regard to the ties of nature, and the most endearing bonds of affection are broken for ever."

It was mentioned also as a special grievance, that "some who were entitled to freedom, had been sold into unconditional slavery." And they gave the case of a colored man who had been taken up as a runaway slave, imprisoned, and advertised; and no one appearing to claim him, he was sold for life at public auction for the payment of his jail fees, and taken to the south. A stronger anti-slavery document has not in later years been presented to congress; nor did it receive any more efficient action than similar petitions have since received.

The memorable presidential contest between Adams and Jackson terminated in November, 1828, in the triumphant election of the latter. It was one of no ordinary character. It was unusually animated and acrimonious. Mr. Adams' election had been effected by a "coalition" which many sincerely believed to have been dishonorable; and this belief undoubtedly incited them to more than ordinary activity in their early formed purpose to rebuke the coalitionists. The opposition to the reelection of Mr. Adams commenced early. The overthrow of his administration was predetermined before his inauguration. The opposition so early begun, was maintained throughout without abatement. The personal character of the candidates was assailed in a manner unjustifiable and perhaps unprecedented. The private life of Mr. Adams was correct beyond that of most public men. Many of his official acts, however, were subjected to the most rigid scrutiny, with the view of deducing from them evidence of dishonesty and corruption. His opponent was, on this point, more vulnerable. His earlier life had been marked with faults, and even vices. These though long since condemned by himself, and abandoned, were ungenerously held up to public view. Moral character, however, has too often far less weight with the mass of the electors than supposed obligations to party.

But whatever disadvantage Gen. Jackson may have suffered in this respect, was far more than counterbalanced by actual advantages which

he possessed over his opponent. Besides the benefit which inured to him from the suspicions of unfairness in the election of Mr. Adams, the fact of his having received a plurality of the electoral votes at the preceding election, was itself considered by many as establishing a claim to their support. The electoral votes of Jackson and Crawford were 140; those of Adams and Clay, 121. It was apparent, therefore, that by an entire union of the strength of the two former, Gen. Jackson would be elected. Though neither was popular at the south, Mr. Adams had incurred in an eminent degree, the resentment of Georgia, in a controversy with that state respecting the Indian difficulties: and several of the neighboring states sympathized with Georgia in that affair. Mr. Adams, too, was known to be in favor of a more liberal construction of the constitution than southern statesmen generally; and although Gen. Jackson had taken high ground in favor of protection and internal improvement, they had no reason to apprehend under his administration an aggravation of the evils of that policy; but they rather hoped for some mitigation of them. And yet another advantage enjoyed by Gen. Jackson in this contest, was the support which he received from those whose claims to executive favor had not been sufficiently appreciated by Mr. Adams. Although Gen. Jackson, as is generally believed, held out no inducements to the disappointed expectants of office under Mr. Adams, it is both natural and usual for this class of politicians to change their party relations when it can be done without hazard, or with a moderate expectation of personal advantage.

Of the whole number of electoral votes for president, Gen. Jackson received 178; and Mr. Adams, 83. Mr. Calhoun was reelected vice-president by 171 votes, (the 7 Georgia electors having voted for William Smith, of South Carolina) and Richard Rush received 83.

The 2d session of the 20th congress commenced on the 1st of December, 1828, and closed with the constitutional term of Mr. Adams' administration on the 3d of March, 1829.

At this session, protests against the tariff of the preceding session from the legislatures of the states of Georgia and South Carolina, were presented to the senate. The Georgia protest pronounced that act, entitled, "An act in alteration of the several acts imposing duties on imports," "deceptive in its title, fraudulent in its pretexts, oppressive in its exactions, partial and unjust in its operations, unconstitutional in its well known objects, ruinous to commerce and agriculture—to secure a hateful monopoly to a combination of importunate manufacturers;" and, in language similar to that employed in her correspondence with the general government on a former occasion, and hinting toward nullification, concludes thus:

"Demanding the repeal of an act which has already disturbed the union, and endangered the public tranquillity, weakened the confidence of whole states in the federal government, and diminished the affection of large masses of the people to the union itself, and (demanding) the abandonment of the degrading system which considers the people as incapable of wisely directing their own enterprise; which sets up the servants of the people in congress as the exclusive judges of what pursuits are most advantageous and suitable for those by whom they were elected; the state of Georgia expects that, in perpetual testimony thereof, the deliberate and solemn expression of her opinion will be carefully preserved among the archives of the senate; and in justification of her character to the present generation and to posterity, if, unfortunately, congress, disregarding the protest, and continuing to pervert powers granted for clearly defined and well understood purposes, to effectuate objects never intended by the great parties by whom the constitution was framed, to be intrusted to the controlling guardianship of the federal government, should render necessary measures of a defensive character, for the protection of the people of the state, and the vindication of the constitution of the United States."

Mr. Berrien, having stated the purport of the protest, said it was now delivered to be deposited in the archives of the federal government, to serve whenever occasion might require it, as an authentic testimony of the solemn dissent of one of the sovereign states of this union, from the act therein protested against, as an infraction of the constitutional compact by which she is united to the other members of the confederacy. Mr. Berrien expressed his own attachment and that of Georgia, to the federal compact, and begged gentlemen not to believe that this act was one of temporary excitement. He adverted to the efficiency with which this government had sustained itself during so many trials, and expressed an opinion, that it was yet to undergo a more fearful trial in questions affecting our internal peace, an event which, he hoped, might be far off. On his motion, the letter of the governor and protest were laid on the table, and printed.

The South Carolina protest was presented by Mr. Smith, senator from that state. It assigns at length the reasons for protesting against the system of protecting duties, which it pronounces "unconstitutional, oppressive and unjust:" and, lest an apparent acquiescence in the system should be drawn into precedent, the legislature, in the name of the commonwealth, claim to enter their protest in the journals of the senate. Mr. Smith adverted to the various restrictive measures of the general government—tariffs, embargo, and non-intercourse acts—under which his state had suffered. He stated in the course of his remarks, that "he be-

lieved there was not a man in the country not interested in manufactures, who would not be glad to see all the goods used in the country smuggled into it. He believed there was not a virtuous man who would inform. We had heretofore been celebrated as a moral people; but these were the effects of your tariff system."

Mr. Hayne also complained of the effects of the policy of the general government upon the south; discussed the question of the constitutionality of the protecting system; and undertook to prove that Mr. Jefferson had been unjustly claimed as a friend to that principle, referring to his letter of December, 1825, to Mr. Giles, to prove that he considered the system unconstitutional. The protest was ordered to be printed.

A bill was introduced by Mr. Dickerson, of New Jersey, December 13, 1826, "to provide for the distribution of a part of the revenues of the United States among the several states of the union." Of the ten millions of dollars appropriated annually to the sinking fund, by the act of 1817, the bill proposed to distribute five millions annually for four years among the several states in the ratio of direct taxation. It was intended by the mover as an experiment, which, if successful, would be followed by an adoption of its principle in a more permanent form. The objects of the bill were alleged to be, to provide funds, in all the states, for purposes of education and internal improvement; and, by transferring to the state legislatures the application of a part of the surplus funds, to relieve congress from a formidable weight of legislation, and to prevent a concentration of power in the general government never intended to be vested there by the framers of the constitution.

Mr. Dickerson supported his bill by an elaborate speech, in which he urged the vast advantage of this sum to the states, without any disadvantage to the general government. So rapidly had the public debt been diminished, and so ample would still be the means of payment, that no inconvenience would be experienced by the withdrawal of five millions annually. He believed that a gradual distribution of the surplus in the manner proposed, would produce a greater good than would be done by a more speedy extinguishment of the public debt, and the distribution at once of a large surplus suddenly accumulated. The bill was, on motion of Mr. Benton, laid on the table. The proposition seems to have found little favor with the senate.

At the session of 1828 and 1829, Mr. Dickerson again brought this proposition before the senate, but with no better success. He advocated the bill on the same grounds as when it was introduced two years before. A large portion of the revenues must soon be appropriated to objects of internal improvements, either by the general government, or by the states. To make roads and canals, congress had not a constitutional

right, even with the consent of the states. In favor of this opinion, he referred to the veto of Madison, in 1817, to the bill proposing to set apart certain funds for constructing roads and canals and for improving water courses in the states, with the assent of the states. Mr. Madison said: "If a general power to construct roads and canals, and to improve the navigation of water courses, with the train of powers incident thereto, be not possessed by congress, the assent of the states, as provided for in the bill, can not confer the power." By the passage of this bill, the constitutional objection would be avoided; and the states could make a more just and beneficial application of the money than could be done by the general government.

Mr. Smith, of Maryland, was of the opinion that, when the public debt was paid, it would be better, instead of continuing to raise the revenue, to leave in the pockets of the citizens the surplus which it was proposed to divide among the states. He would therefore reduce the duties on imports. He objected to the project, also, that it would encourage the states to rely for support on the general government. And farther, congress had no right to raise a revenue for the purpose of distributing it.

Mr. Hayne, of South Carolina, said, those were mistaken who supposed this plan would settle the distracting question of internal improvement. Calls for money for this purpose would continue. He thought it better to purchase up and extinguish the public debt, even before it became due. He believed the whole of the national debt could be paid in 1833, and before the close of the next administration; and that the great and good man who was about to wield the destinies of this country would not desire to earn a greater honor than to have it inscribed on his tomb-stone, that he had extinguished the national debt.

Mr. Benton hoped the example of England, the mother, would not be lost upon the United States, her child. About a hundred years ago, England enjoyed a long peace under the timid administration of Sir Robert Walpole, in which the public debt, then small, might be paid off. At his instance, half a million sterling was annually diverted from the sinking fund, under the supposition that the money, not being wanted by the public creditors, could be used more beneficially for other purposes. But the debt grew rapidly; and the country was soon overwhelmed with taxes. He joined in the wish of the senator from South Carolina, that the debt might be paid off under the ensuing administration. Such a consummation would confer new fame upon Gen. Jackson.

The debate was continued by Messrs. Dickerson, Hayne, Johnson, of Louisiana, Benton, Kane, Webster, Berrien, and M'Lane. The bill seems to have been advocated by no other senator than the mover. It

was subsequently, on motion of Mr. Dickerson, referred to a select committee for modification, but no report was made upon it.

On the 10th of February, 1829, Mr. Hendricks, of Indiana, presented to the senate, a resolution of the legislature of that state, declaring, that the state, "being a sovereign, free, and independent state, has the exclusive right to the soil and eminent domain of all the unappropriated lands within her acknowledged boundaries;" and that this right "was reserved for her by the state of Virginia in the deed of cession of the north-western territory to the United States, being confirmed and established by the articles of confederacy and the constitution of the United States." The resolution also instructed their senators and representatives in congress to use their exertions to induce the United States to acknowledge this vested right of the state, and to place her upon an equal footing with the original states.

The claim of the state to the public lands within her boundaries, Mr. Hendricks said, was based upon the stipulation in the deed, by which Virginia ceded her western lands to the United States, that that portcion now forming the state of Indiana, should, when admitted into the union, be received as a free, sovereign, and independent state, and on an equal footing with the original states, in all respects whatever. These lands, as well as those ceded by other original states to the general government, were ceded to and received by the United States for the express purpose of paying the national debt; but this, it was contended, did not interfere with the construction given by that state to the deed of cession. A long time was expected to intervene between that period and the admission of the state, and thirty-two years had actually intervened, in which time the lands, or a part of them, might have been sold, and the debt extinguished. It could not, he said, have been the intention of congress to interfere with those lands after they should have fallen within the boundaries of states admitted into the union: the article of confederation declaring, that no "state should be deprived of territory for the benefit of the United States."

But if this view of the subject was erroneous, it was nevertheless impolitic and inexpedient for the general government to continue to assert its claim to the unappropriated lands of one-third of the states. While the public lands remain in the hands of the federal government, the new states will not, can not be satisfied; because congress was, and must ever be, incompetent to legislate understandingly on the subject. The legislatures of the states were much better acquainted with the qualities of the soil, the necessities of the people, and were better judges of the measures adapted to promote the interests of their citizens.

Mr. Noble differed with his colleague. Congress, he believed, would

never relinquish these lands to the states in which they were, and to hold out the idea that they would, was injurious to the prosperity of the new states. It would be unjust to deprive the old states of their share in the public lands. It was through the protection and support they had received from the old states, that the new states were indebted for their prosperity. On his motion, the resolution was referred to the committee on public lands.

In the house of representatives, a select committee was appointed at this session, to whom was referred a resolution relative to the expediency of distributing annually, amongst the states, all moneys arising from the sales of the public lands. The committee made their report on the 25th of February, 1829. The report contains a history of the public lands, and states the quantity to which the government still held the right of soil, to be more than 1,000 millions of acres. The committee say :

“The public lands as now held by the United States, may be classed under the three following heads :

“1st. Those which were ceded by several of the old states to the confederated government, and the present government of the United States.

“2dly. Those which were acquired by purchase from France by the treaty of Paris of the 30th of April, 1803, (Louisiana).

“3dly. Those purchased of Spain by the treaty of Washington, of the 22d of February, 1819, (Florida, and the territory west of the Mississippi).”

A division of the public lands amongst the states had been suggested to the committee. This, they believed, would be an injurious measure. It would be impossible so to locate the several divisions as to attach to them an equal value. The states would have different systems of sales. Struggles would take place in congress for measures to advance the value of the possessions of some of the locations over that of the others. Serious collisions would occur. Speculation, fraud, and corruption would be attempted in the state legislatures.

To avoid these evils, and to protect the rights of the community, the committee proposed to give the states a direct interest in the income arising from the sale of the public lands. This measure would check further concessions, and prevent the selfish from availing themselves of the advantage presented by some great crisis of public affairs to obtain propitiatory concessions from rival parties injurious to the general interest. As a guard to the purity of legislation, and as a just and equitable application of the value of the lands, the committee recommend the policy of *distributing the nett proceeds of all sales of the public lands*

among the several states, in the ratio of their population. Among the benefits of this plan would be the adoption of a system of rigid economy in relation to the expenditures of the land offices; and no private or other claim would be sanctioned, but as its justice should be clearly ascertained.

A few days before the close of the session and of the presidential term of Mr. Adams, Mr. Hamilton, from the select committee on retrenchment, made an additional report, as follows: "That, having presented to the house various bills and resolutions consequent on such abuses, legislative and administrative, to which they thought a corrective ought to be applied, (upon which bills and resolutions, the shortness of the session, and the interposition of bills of a public nature having priority on the calendar, have precluded the action of congress,) they deem it important, before the close of their labors, that the house should distinctly express its opinion on the following cardinal subjects of public economy:

"1. Be it therefore resolved, That as no free people should be burdened with unnecessary taxation, it is expedient to pay the public debt with all convenient dispatch.

"2. That this house has a right to expect that the executive will submit to congress at its next session, a comprehensive scheme of retrenchment, which shall extend to the lopping off of all useless offices, and to securing a more effective accountability in those which are retained.

"3. That a retrenchment of the fixed as well as contingent expenditures of congress, is indispensably necessary, more especially the last which are essentially liable to abuse."

Mr. Hamilton addressed the house on the resolutions until the expiration of the hour allotted to morning business. No action upon the resolutions was taken.

CHAPTER XXXVIII.

INAUGURATION OF PRESIDENT JACKSON.—REMOVALS FROM OFFICE.—MEETING OF CONGRESS.—PRESIDENT'S MESSAGE.

ANDREW JACKSON was inaugurated president of the United States on the 4th day of March, 1829. At half-past eleven o'clock, he entered the senate chamber, attended by the marshal of the district and the com-

mittee of arrangements. The chief justice of the United States and the associate judges were seated on the right of the president's chair, and the foreign ministers in their official costumes on the left. At about twelve o'clock, in the presence of the senate and house of representatives, and an immense concourse, he delivered his inaugural address; at the conclusion of which, the oath to support the constitution was administered to him by chief justice Marshall.

The principles upon which his administration was to be conducted were briefly and appropriately stated. He should keep steadily in view the limitations as well as the extent of the executive power; observe a proper respect for the rights of the states, taking care not to confound their reserved powers with those granted to the confederacy; observe a strict and faithful economy in the management of the public revenue, in order to facilitate the extinguishment of the public debt, and to counteract a tendency to public and private profligacy, which a profuse expenditure is apt to engender; recommended equal favor to agriculture, commerce, and manufactures in selecting subjects of impost; and commended internal improvement and the diffusion of knowledge, so far as they could be promoted constitutionally by the federal government. He would not seek to enlarge the standing army; but would gradually increase the navy, and strengthen the national militia; and he would "observe toward the Indian tribes within our limits, a just and liberal policy; and give that humane and considerate attention to their rights and their wants which are consistent with the habits of our government and the feelings of our people."

Another duty which he prescribed to himself, and which he seems to have regarded as peculiarly important, is alluded to as follows: "The recent demonstration of public sentiment inscribes on the list of executive duties, in characters too legible to be overlooked, the task of *reform*; which will require, particularly, the correction of those abuses that have brought the patronage of the federal government into conflict with the freedom of elections, and the counteraction of those causes which have disturbed the rightful course of appointment, and have placed or continued power in unfaithful or incompetent hands."

The names of the persons selected to constitute the new cabinet, were the following: Martin Van Buren, of New York, secretary of state; Samuel D. Ingham, of Pennsylvania, secretary of the treasury; John H. Eaton, of Tennessee, secretary of war; John Branch, of North Carolina, secretary of the navy; John McPherson Berrien, of Georgia, attorney general; and William T. Barry, of Kentucky, postmaster-general. Prior to this time, the postmaster-general was not included in the cabinet. John M'Lean, of Ohio, the incumbent of that office, was appointed an associate justice of the supreme court.

For a development of the general policy of the new administration, the public mind awaited the appearance of the first annual message. The executive appointments, however, soon discovered the adoption of a new rule in the exercise of this power, and was taken by many as an explanation of the nature of the "reform" alluded to in the inaugural address, as "inscribed on the list of executive duties." The senate continued in session until the 17th of March to act upon nominations made by the executive. Among the persons appointed, were a considerable number who were nominated to supply vacancies caused by removal of incumbents. During the recess of the senate, removals were very numerous. District marshals, and attorneys; surveyors, inspectors, and collectors of ports; naval officers; appraisers of goods; receivers of public moneys; auditors, controllers and clerks in the executive departments, were displaced, and political adherents appointed in their places. But the most numerous class of officers removed, was that of postmasters, of whom nearly five hundred were removed during the first year of the administration.

This principle of removal and appointment was of course made the subject of general complaint and severe animadversion by the party thus proscribed. It revived, to some extent, the question of the right of the executive to displace public officers, or to fill vacancies that do not "*happen*," in the recess of the senate; it being considered by many of the opposition a perversion of the word *happen* in the constitution to apply it to a vacancy caused by *removal* except for official misbehavior or incompetency. But conceding the practice to be constitutional, it was held to be an unjustifiable exercise of power. The proscription of men for an honest difference of sentiment not at all affecting the faithful discharge of a public duty, was inimical to freedom of opinion and political integrity. It was, moreover, a practice without precedent in any preceding administration. The friends of the administration claimed for the executive the right to exercise the power of removal at his discretion; and as he was intrusted with the execution of the laws, it was also eminently proper that he should be permitted to select for his assistants, those for whose acts he was responsible. This right of selection necessarily implied that of the unrestricted substitution of one person for another.

There were those, however, who, though they readily conceded to the president the power of removal in accordance with the construction of the constitution as sanctioned by the practice of the national legislature, nevertheless disapproved its exercise to the extent to which it had been carried, especially in the removal of postmasters. Niles, the editor of the "*Weekly Register*," and a veteran republican, commented on this subject, thus:

"Political considerations, except those of the broadest and most noble nature, (in the spread of intelligence,) never entered into the institution of the post-office department. It becomes contaminated when reduced to the dominion of party; and confidence, once lost, is slowly regained. Its operations should be as unsuspected of party management as the purity of a vestal; and while expecting that many changes would be made by the new administration in the officers superintending other branches of the public business, we strongly hoped that the post-office department would have remained unsubjected to any private or political feeling of that administration. But that hope was not long indulged. The arrangement of the postmaster-general into "the cabinet" with after events, which transferred Mr. M'Lean to the bench of the supreme court, and introduced Mr. Barry to the direction of the establishment, filled us with something like alarm, and caused us to recollect events long past,—when a vice-president of the United States, (Mr. Jefferson,) not only declined the superscription of his own letters, but often sent them inclosed to persons other than those for whom they were intended, by previous arrangement; and, when at home in Virginia, sometimes caused them to be dropped into a post-office a little removed from his own; when it was believed that the names of the subscribers to a certain newspaper, (the Aurora, by Bache or Duane,) at particular places, were officially returned to 'head quarters' for political purposes. Whether the suspicions of Mr. Jefferson and the party that supported him were well founded or not, the simple fact that many of the deputy postmasters were violent partisans, and some had been put into office as such, justified them and required this caution. * * * Deeply interested in the business of the post-office establishment, and knowing the effects that must follow a loss of confidence in its management, we were exceedingly anxious that honest and capable, industrious and obliging postmasters should not be dismissed for opinion's sake. If there were abuses of the privileges allowed to postmasters on the one side, they were not wanting on the other. What was improper in one party can not have been right in its opponent. And there is also this important difference: not *one* of the postmasters recently in office had been appointed to supersede another because of political opinion, so far as we ever heard; and even if had been so, it was to have been expected that they were rather against than favorable to the last administration; Mr. M'Lean being understood as a decided friend of the election of Gen. Jackson. Yet we do not believe he suffered his private feelings to enter into the performance of his public duties. But now, persons are dismissed without the preferring of charges against them affecting their moral character or personal standing."

We do not propose to discuss, in this place, the justice or propriety of this new rule of appointment introduced into the administration of the government by Gen. Jackson, and since that time invariably practiced by every dominant party; nor to inquire into the reasons for a practice so directly contrary to the rule prescribed by himself to one of his late predecessors. He had also in the distribution of executive patronage, disappointed the public expectation by an unusually liberal dispensation to members of congress—a practice which he had, in his letter to the legislature of Tennessee, declared to tend inevitably to corruption. As might be expected, his opponents availed themselves of whatever advantage might be gained from an exposure of the inconsistency of his profession and practice. It may here be observed, however, that no political principle or measure deliberately adopted as a party expedient, will ever be wanting in apologists and defenders; and however repugnant to the feelings of an unsophisticated politician may be the idea of proscription for opinion's sake, it has become so familiar as to have lost its deformity in the view of the mass of politicians, and long since ceased to afford the basis of an effective electioneering argument against any party practicing it.

The number of persons removed from office by each of the several presidents, had been as follows: By Gen. Washington, in eight years, *nine*, one a defaulter; by John Adams, in four years, *ten*, one a defaulter; by Jefferson, in eight years, thirty-nine; by Mr. Madison, in eight years, *five*, three defaulters; by Mr. Monroe, in eight years *nine*, of which six were for cause; by John Quincy Adams, in four years, *two*, both for cause.

The appointment by Mr. Adams, of certain members of congress to office, having been made the occasion of a call upon him "for a list of appointments given by the executive to members of congress, since the foundation of the government"—the object of the information being alleged to be to enable congress to remove an evil said to exist and to be growing—the president communicated the information. The list transmitted embraced the names of members appointed during their official terms and "for six months thereafter," as required by the resolution, and is stated in Niles' Register of June 20, 1829, to contain, in the aggregate, 117, as follows: Appointed by Washington, 10; by John Adams, 13; by Jefferson, 25; by Madison, 29; by Monroe, 35; by John Quincy Adams, in thirteen months, to the time of the report, 5; to wit, Henry Clay, secretary of state; James Barbour, secretary of war; Rufus King, minister to Great Britain; Joel R. Poinsett, minister to Mexico; and Lot Clark, postmaster, Norwich, N. Y. During the first three months, the number of members appointed by president

Jackson, was 12; including the whole cabinet, except Mr. Barry; foreign ministers, Louis M'Lane, to England; William C. Rives, to France; Thomas P. Moore, to Colombia; George W. Owen, collector at Mobile; John Chandler, collector at Portland; Jeromus Johnson, appraiser of goods at New York; John G. Stower, of New York, United States district-attorney for Florida.

The 1st session of the 21st congress, as also the first under president Jackson's administration, commenced the 7th of December, 1829. In both branches there were majorities in favor of the administration. In the preceding congress, the majority of 6 in the senate, had been reduced to 4; while that of 17 in the house, had been increased to 59, as was estimated.

The message of the president was delivered the next day. Besides the ordinary topics embraced in a review of our internal affairs and our foreign relations, several measures, not usually presented to congress, were introduced into the message. He suggested an amendment of the constitution, bringing the election of president and vice-president directly to the people; restricting the service of the chief magistrate to a single term of four or six years; prohibiting the appointment of members by the president in whose election they may have been officially concerned; and suggesting the limitation to four years of all offices which now exceeded that term.

The attention of congress was also invited to an inquiry into the condition of the government with a view to ascertain what offices could be dispensed with, what expenses retrenched, and what improvements might be made in the organization of its various parts to secure the responsibility of public agents.

Among the subjects brought to the notice of congress, was that of the rechartering of the bank of the United States. It was thus alluded to: "The charter of the bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles and such deep pecuniary interests, I feel that I can not in justice to the parties interested, too soon present it to the deliberate consideration of the legislature and the people. Both the constitutionality and the expediency of the law creating this bank are well questioned by a large portion of our fellow-citizens; and it must be admitted by all, that it has failed in the great end of establishing a uniform and sound currency.

"Under these circumstances, if such an institution is essential to the fiscal operations of the government, I submit to the wisdom of the legislature, whether a national one, founded upon the credit of the gov-

ernment and its revenues, might not be devised, which would avoid all constitutional difficulties, and at the same time secure all the advantages to the government and country that were expected to result from the present bank."

The subject of our Indian affairs; though not a new one, was treated in a manner indicating a contemplated change in the policy of the government in relation to the Indian tribes—a change which, if not actually demanded by Georgia and Alabama, was known to be in accordance with their wishes. The president says: "A portion of the southern tribes, having mingled much with the whites, and made some progress in the arts of civilized life, have lately attempted to erect an independent government within the limits of Georgia and Alabama. These states, claiming to be the only sovereigns within their territories, extended their laws over the Indians, which induced the latter to call upon the United States for protection."

Deeming the erection of such government repugnant to that provision of the constitution which declares, that "no new state shall be formed or erected within the jurisdiction of any other state," without the consent of its legislature, he had informed the Indians, that their attempt to establish an independent government would not be countenanced, and had advised them to emigrate beyond the Mississippi, or submit to the laws of those states. He recommended that territory should be guaranteed to them beyond the limits of any state or territory now formed, where they might enjoy a government of their own choice, and where "the benevolent might endeavor to teach them the arts of civilization." And they were to be informed that, if they remained within the limits of the states, they must be subject to their laws.

Presuming that, after the extinction of the public debt, a large surplus would accumulate in the treasury, before the public revenues would, by a satisfactory adjustment of the tariff, be reduced to a sum required merely for the current expenses of the government, the disposition of this surplus presented a subject for the serious deliberation of congress. Appropriations for purposes of internal improvement being regarded by many of the people as infractions of the constitution, he proposed, in order to avoid this as well as other objections, and as "the most safe, just, and federal disposition which could be made of this surplus revenue, its apportionment among the several states, according to their ratio of representation;" and if this measure should be liable to the same objection, it would be expedient to propose to the states an amendment of the constitution authorizing it.

The ground to be assumed by president Jackson in relation to the tariff and internal improvements, was the subject of much speculation.

His votes on these questions in the senate of the United States, had indeed placed him among the advocates of a liberal construction of the constitution. He had voted during his short service in that body, for a large number of bills appropriating money for purposes of internal improvement. He had coöperated with ultra protectionists in the enactment of the tariff of 1824; and he had but recently, in his answer to the legislature of Indiana, given assurances of his undiminished attachment to these principles. But his supporters in the southern states consisted chiefly of the former friends of Mr. Crawford, who were uncompromising opponents of the policy and principles with which Gen. Jackson had been identified. How to dispose of these questions without seriously affecting his standing with the one or the other of these branches of his party, was considered a difficult matter. His course in relation to internal improvements is hinted in the preceding paragraph respecting the disposition of the surplus revenue. His views on the subject of the tariff are given more at length.

The operation of the tariff, he said, had not been so injurious to agriculture and commerce, or so beneficial to manufactures as had been anticipated. Importations of foreign goods had not been sensibly diminished, while domestic competition had increased the production beyond the demand for home consumption, and the manufacturers had been subjected to partial loss by the reduction of prices. Unrestricted intercourse between nations was desirable; but the selfish legislation of other nations must be counteracted by our own. Some provisions of the tariff required modification; and the rule to be observed in graduating the duties upon foreign products was that which would place our own in fair competition with them; and there were controlling inducements to advance a step beyond this point in regard to articles of primary necessity in time of war. The delicacy of this operation required the observance of the utmost caution. Frequent legislation in regard to any branch of industry, affecting its value, and transferring its capital to new channels, was productive of hazardous speculation and loss. In deliberating on these subjects, local feelings and prejudices should yield to the determination to promote the great interests of the whole. They should not be connected with the party conflicts of the day. The different sections of the country should unite in diminishing any burden of which either might justly complain.

The agricultural interest, from its connection with every other, and from its superior importance, deserved particular attention. It was principally as manufactures and commerce tended to increase the value of agricultural productions, that they deserved the fostering care of government.

On the whole, the subject was skilfully treated. No sentiment was expressed to which any southern opponent of the tariff would be likely to take exception; and although some of the friends of the tariff professed to discover in the general tenor of the language of this part of the message indications of a change of position on this question, it is not easy to perceive how any sentence could, by fair construction, be regarded as hostile to the protective policy.

The power of the president to remove public officers except for cause, was discussed at this session. Resolutions on the subject were offered in the senate by Mr. Holmes, of Maine, and by Mr. Barton, of Missouri; and in the house by Mr. Chilton, of Kentucky. The objects embraced in the different resolutions presented, were to ascertain the number of removals made by the president, and the reasons for the same; and the exercise of the power in removing officers when not required for the faithful execution of the laws, and of filling the vacancies, during the recess of the senate, was declared to be against the public interest, the rights of the state, and the spirit of the constitution.

In the senate, the question of the executive power of removal and appointment, was discussed, both in secret session, and in open debate. Of the speeches reported, those of Messrs. Holmes and Barton in favor of the resolutions are the principal, and of those in opposition, that of Mr. Bibb, of Kentucky. Several of the speeches made in secret session do not appear in the "congressional debates."

Mr. Barton referred to the 77th number of the "Federalist," to sustain the exposition for which he contended. It was there said: "The consent of that body, (the senate,) would be necessary to displace as well as to appoint. A change of the chief magistrate, therefore, would not occasion so violent or so general a revolution in the offices of the government, as might be expected if he were the sole disposer of the offices." The same writer, in reference to the objection that the senate might influence the president, and assume the control of the government, says: "If by influencing the president be meant restraining him, this is precisely what must have been intended. And it has been shown that this restraint would be salutary, at the same time that it would not be such as to destroy a single advantage to be looked for from the uncontrolled agency of that magistrate. The right of nomination would produce all the good without the ill."

Appended to this number of the Federalist, is the following note, in the later editions: "This construction has since been rejected by the legislature; and it is now settled in practice that the power of displacing belongs exclusively to the president." Mr. Barton said: "This note ought to be expunged as calculated to mislead students and weak cabinets. It

is not true, in point of fact, that the legislature has rejected this construction; nor true, in point of law, that the senate can renounce an iota of their restraining power that belongs to their organization, and chiefly distinguishes our checked and restrained executive from one of arbitrary will. The whole idea of the annotator was taken from the laws respecting the assistants of the president, to perform the duties prescribed by him as under the act of 1789, and not applicable to the officers of the public, or of the law, to perform duties prescribed by the laws of the land. The correctness of Hamilton, (the writer of the article,) and the error of the annotator and his disciples of the majority, can be demonstrated, if there be truth in logic and common sense. The argument stands thus: Without the concurrent power of the senate in matters of appointing, (as you admit in your report of 1826,) the president becomes a monarch."

Mr. Barton admitted the right of the president to remove an officer for official delinquency or disability, and to put a fit person in his place. This was in conformity to his obligation to see the laws faithfully executed. But the doctrine of an unrestricted power of removal was a departure from the exposition and understanding of the constitution by the founders of the government. It enabled the president to use the offices of the republic as bribes or weapons, and rendered public officers dependent upon him for official existence. It put it into his power to wield the whole official force of his country—nay, the purse and the sword of his country—against its liberties. To pervert the power to the purpose of punishing freemen for their opinions or votes, or purchase supporters, or reward office hunters, was a great offense, a gross violation of our constitutional rights, by a president. He adverted to the inconsistency of the majority. They had said that the president was responsible to the people at the end of his term; and they could correct the abuse. Yet the opponents of the resolutions refused to let the people know for what causes the power had been exerted!

Mr. Bibb, in reply, referred to the act of July, 1789, establishing the department of foreign affairs, since called the "department of state," the principal officer of which was authorized to appoint a chief clerk, "who, whenever the said principal officer shall be *removed from office by the president of the United States*," &c. A similar provision, he said, was in the law organizing the departments of war and the navy. Those three acts conceded the power of the president to remove the principal officer. Mr. Bibb read a list of removals, by presidents Washington, Adams and Jefferson. From the time of Washington's first removal to the present time, not an instance had occurred in which the senate, as a body, had asserted the right to ask the cause of removal, or to exercise an appel-

late or revisory power over the president's decision. The attempt, in 1814, to ask the cause of the removal of Gideon Granger from the office of postmaster-general, was rejected by the senate.

Mr. B. also cited a decision of the supreme court, made in 1803. "When an officer is removable at the will of the executive, the circumstance which completes his appointment is of no concern, because the act is at any time revocable. By the constitution of the United States, the president is invested with certain political powers, in the exercise of which he is to use his own discretion, and is accountable only in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders. In such cases, their acts are his acts; * * * and there exists and can exist, no power to control that discretion."

He also examined this question upon the principles of the constitution. A feeble executive produced a feeble execution of the laws; which was, in effect, a bad execution of the laws. Energy in the executive was essential to a good government. This had been provided by the constitution. In a government looking to our intercourse with foreign nations to preserve peace; direct the energies of the nation in war; spreading over such an extent of territory, an energetic executive was more necessary than in one of the confederated states. At the time of making the constitution, there were but two tenures of office, the one during good behavior, the other during pleasure. When, therefore, the constitution required the president to nominate, appoint, and commission all officers, and to commission the judges during good behavior, it followed clearly that he should commission no other officers during good behavior, but to hold during the pleasure of the president.

Mr. B. presented several other considerations to enforce this interpretation. He said this tenure of office at the will of the president was well adapted, (1.) To preserve due subordination in the officers to the executive head; (2.) To preserve that unity of purpose and action necessary for decision, energy and dispatch; (3.) To defend the executive against the encroachments of the coördinate departments, as well as against anarchy; (4.) To maintain that due weight and influence to the president which was intended by the constitution, in giving him a qualified negative upon the proceedings of congress, and in assigning to him the duty to recommend to congress such measures as he shall judge necessary and expedient.

The resolution, being that introduced by Mr. Barton, was on motion of Mr. Grundy, laid on the table. Mr. Holmes' resolutions, after a long speech by himself, were, on motion of Mr. Grundy, indefinitely postponed.

CHAPTER XXXIX.

FOOT'S RESOLUTIONS ON THE PUBLIC LANDS.—GREAT DEBATE IN THE SENATE.

AT this session, (1830,) occurred what has been termed, "the great debate in the senate." The occasion, rather than the subject of it, was a resolution offered by Mr. Foot, of Connecticut, "That the committee on the public lands be instructed to inquire into the expediency of limiting, for a certain period, the sales of the public lands to such lands only as have heretofore been offered for sale, and are subject to entry at the minimum price. And also whether the office of surveyor-general may not be abolished without detriment to the public interest."

We have said this resolution was the *occasion* of the debate; because, except in the earliest stage of it, among the unusual number of topics embraced in the discussion, the resolution itself received but a secondary consideration.

The resolution was offered on the 29th of December, 1829. It was taken up the next day for consideration, and, after a short debate, was laid on the table. The discussion was resumed a few days afterward, and continued until the 21st of May. The object of the mover of the resolution was to confine the sales of the public lands to those already surveyed and brought into market; there being more than 72,000,000 acres which remained unsold at the minimum price of \$1 25 per acre. The resolution was opposed on the ground that the object contemplated by it would check emigration to the new states and territories, and limit their settlement. The eastern states were charged with a design to impede the settlement of the western states; one object of which was alleged to be, to keep the people in the east to work in the manufactories. Hostility on the part of the eastern states, to the new states of the west, had been repeatedly manifested. The resolution was vigorously opposed by the western senators, Messrs. Benton, of Missouri, and Kane and Noble of Illinois, especially Mr. Benton, who referred to the early policy of the government; the tendency and design of which had been to retard the settlement and prosperity of the new states.

Mr. Foot repelled the imputation of hostility to the west; said, if the resolution should be adopted, he should move to add the words, "propriety of making donations to actual settlers."

The senators whose names are most familiarly associated with this debate, are Mr. Hayne, of South Carolina, and Mr. Webster, of Massachusetts; the former having twice spoken at length, and been replied to

by Mr. Webster. The second reply is the speech which has so often been the subject of high encomium, and which has probably contributed more than any other single effort to the fame of that distinguished orator and statesman. Besides these, the other prominent participants in the debate, were: Messrs. Benton, Grundy, Kane, Livingston, Rowan, Smith, of South Carolina, and Woodbury, all, it is believed, friends of the administration, and all, perhaps, except Mr. Smith, concurring mainly in the views of Mr. Hayne on the subject of the public lands; and Messrs. Barton, Clayton, Foot, Holmes, Johnson, of Louisiana, Sprague, and Noble, opponents of the administration, the last named senator, however, being opposed to the resolution.

Mr. Hayne said, that, in relation to the proper policy of the government concerning the disposal of the public lands, there were two parties, holding opposite opinions. The one supposed the policy heretofore pursued had been just and liberal to the new states; the other, embracing the entire west, thought the government had treated them in the spirit of a taskmaster—that its policy had been illiberal and selfish. It had sold out, from time to time, certain portions for the highest prices that could be obtained; and until within a few years, on long credits. The result of such a course was to keep a country for a long time under a heavy load of debt. Other nations, in planting colonies, had given free grants of land. He had not yet formed a fixed or settled opinion on the subject. But he suggested that, after the public debt should have been paid, (for which the lands were pledged,) it might be sound policy to relinquish them to the states in which they were, on terms which should compensate the government for the cost of the original purchase, and for other expenses incurred on their account. He thought the states should in due season be invested with the control of all the lands within their respective limits.

Mr. H. distrusted the policy of creating a great national treasury, whether to be derived from the public lands or from any other source, and of distributing the excess among the states. It would be a fund for corruption—fatal to the duration of our institutions, and to the sovereignty and independence of the states. He believed the very life of our system was the independence of the states, and no evil was more to be deprecated, than the consolidation of the government.

Mr. Webster maintained that the policy of the government had been liberal to the new states. He considered the analogy referred to by Mr. Hayne to be unjust; the cases were not similar. The North American colonists either fled from Europe to avoid persecution, or came hither at their own charges, as private adventurers. The western lands and the protection of the settlers against the Indians, had led to the expenditure

of both blood and treasure. The extinguishment of the Indian title had cost many millions. Nothing had been spared which a just sense of their necessities required. He adverted to the growth and prosperity of these states since the Indians were conquered by Wayne, which was the result of the care and protection of the government. He objected to throwing great portions of the lands, at low prices, into the hands of private speculation.

In replying to the remark of Mr. Hayne, that he wanted no permanent sources of income—that a fixed revenue only consolidated the government and corrupted the people—Mr. W. said, he was aware such sentiments were elsewhere held; but he had not expected to hear them uttered there. “Consolidation!—that perpetual cry of terror and delusion—consolidation! When gentlemen speak of the effects of a common fund as having a tendency to consolidation, what do they mean? Do they mean, or can they mean, any thing more than that the union of the states will be strengthened by whatever furnishes inducements to the people of the states to hold together? This is the sense in which the framers of the constitution use the word consolidation, and in which sense I adopt and cherish it. They tell us in the letter submitting the constitution to the consideration of the country, that, ‘in all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our union—in which is involved our prosperity, liberty, safety; perhaps our national existence.’ * * * This, sir, is Gen. Washington’s consolidation. This is the true constitutional consolidation.”

Mr. W. defended the East against the charge of hostility to the West. The tariff had been mentioned as an instance of selfish policy, and designed to prevent western emigration. He repelled the charge, and the cause assigned for it. New England was not the author of the tariff. The tariff of 1816 was more a southern than an eastern measure. And in 1824, there were, in each of a majority of the western states, and even in Virginia, more votes in favor of the tariff of that year, than in Massachusetts. It had been forced upon New England.

From the time the cessions of the lands were made to congress, no portion of the country had acted with more liberality or intelligence on the subject of the western lands than New England. Provision was to be made for the government of the country and for disposing of the territory. The soil must be granted and settled. How was it to be done? Two systems presented themselves; the one a northern and the other a southern mode of conducting the sales. The northern was adopted; it was that now in successful operation in the new states north-west of the Ohio. That which was rejected was the system of warrants, surveys

entry and location, which prevailed south of the Ohio, and had shingled over the country with conflicting titles and claims, and led to speculation and litigation. The former was the New England system—that of surveying lands before issuing title papers, and of inserting accurate descriptions of metes and bounds. At the foundation of the constitution of these new states, was the ordinance of 1787, drawn up by Nathan Dane, of Massachusetts. It had impressed upon the soil an incapacity to bear up any other than free men. Mr. W. suggested this as the cause that had given to these states a more rapid growth and prosperity than those south of the Ohio. And this great measure, he said, had been carried by the north, and by the north alone. Individuals elsewhere had favored it; but as a measure, it was supported entirely by northern votes. The Cumberland road and other western improvements had uniformly received the votes of New England,

In vindication of his own course, he read a few extracts from a debate in the house of representatives, in 1825, on the subject of the western road; Mr. W. being then a member of that body. A distinguished member from the south (Mr. McDuffie) had said in that debate, that emigration to the west needed no stimulus, but rather a check. Every inducement had been held out to the people to settle in the west, until the eastern population had become sparse. If any object was worthy the attention of the government, it was a plan which should limit the sale of the public lands. To which he (Mr. W.) had replied, that it was not his wish so to hasten the sales of the lands as to throw them into the hands of purchasers who would sell again; but he could not concur with the gentleman from South Carolina, in wishing to restrain the laboring classes in the eastern states from going to any part of our territory. He was in favor of letting population take its own course. If any of his constituents wished to settle on the Kansas, or the Arkansas, let them go, and be happier, if they could. Mr. W. said he had read these extracts to vindicate his state from unfounded charges and imputations on her public character and conduct.

After this stage of the discussion, many foreign subjects were introduced into the debate, which was continued until the 2d of April. Having been permitted to slumber until near the close of the session, it was revived the 20th of May, and finally brought to a close the next day, without any decisive action upon the resolution. Among the incidental and irrelevant topics drawn into the debate, were slavery, state rights and nullification, the judicial power of the union, New England federalism, &c. It abounded with facts and illustrations relating to the government, which impart to it not a little interest and value as a political history. But the most prominent subject was that of the relative powers of the

state and federal governments, in the discussion of which was asserted the constitutional right of a state to disobey any law which the state authorities may deem unconstitutional—the right of NULLIFICATION.

The principal speakers in this debate, which was almost strictly of a party character were Messrs. Benton, Hayne, Kane, Rowan, Grundy, Livingston, and Smith, of South Carolina, supporters of the administration; and Messrs. Webster, Sprague, Holmes, Noble, Foot, Clayton Johnson, of Louisiana, and Robbins, of the opposition. The former were opposed to the resolution, except Mr. Smith, who, on this subject, dissented from his colleague, Mr. Hayne; the latter, it is believed, Mr. Noble excepted, were all in favor of the inquiry proposed in the resolution. Although Messrs. Hayne and Webster are generally regarded as the leading combatants in this celebrated controversy, Mr. Benton occupied a much greater portion of time than any other senator.

Mr. Webster, at the close of the speech above noticed, was immediately followed by Mr. Benton in the commencement of a speech which was continued for an hour the next day, (January 21,) when he yielded the floor to Mr. Hayne, and did not resume it until after the discussion between those two gentlemen was over. Necessity forbids our giving even the most condensed sketch of the remarks of speakers on the various topics embraced in this very discursive debate—or party combat, as it may be appropriately called. Many important questions, however, were discussed, among which the most prominent was that of the constitutional powers of the national and state governments, in other words, *the nature of the union*.

Mr. Hayne claimed for a state the right not only to disregard a law of congress which it may deem unconstitutional, but to determine for itself, the unconstitutionality of an act, as well as the mode and measure of redress; and founded this claim upon the authority of the Virginia and Kentucky resolutions of 1798 and 1799. Mr. Webster, on the other hand, contended for some power in the general government to decide ultimately upon the constitutionality of laws; and that the doctrine that each state might at discretion violate any law which her own authorities should pronounce unconstitutional, would, if carried into practice, be fatal to the union.

Mr. Hayne, in defense of his doctrine, said: "The senator from Massachusetts, in denouncing what he is pleased to call the South Carolina doctrine, has attempted to throw ridicule upon the idea that a state has any constitutional remedy, by the exercise of its sovereign authority, against a 'gross, palpable, and deliberate violation of the constitution.' He calls it an idle or a ridiculous notion, or something to that effect, and added, it would make the union 'a mere rope of sand.' Now, sir, as

the gentleman has not condescended to enter into any examination of the question, and has been satisfied with throwing the weight of his authority into the scale, I do not deem it necessary to do more than to throw into the opposite scale the authority on which South Carolina relies, and there, for the present, I am willing to leave the controversy. The South Carolina doctrine, that is to say, the doctrine contained in an exposition reported by a committee of the legislature in December, 1828, and published by their authority, is the good old republican doctrine of '98; the doctrine of the celebrated 'Virginia resolutions' of that year, and of 'Madison's report,' of '99. It will be recollected that the legislature of Virginia, in December, '98, took into consideration the alien and sedition laws, then considered by all republicans as a gross violation of the constitution of the United States, and on that day passed among others, the following resolution :

" The general assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the states who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights, and liberties appertaining to them. "

Mr. H. also quoted from Mr. Madison's report the following: " It appears to your committee to be a plain principle, founded on common sense, illustrated by common practice, and essential to the nature of compacts, that, when resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the rightful judges, in the last resort, whether the bargain made has been pursued or violated. The constitution of the United States was formed by the sanction of the states, given by each in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the constitution, that it rests on this legitimate and solid foundation. The states, then, being the parties to the constitutional compact, and in their sovereign capacity, it follows, of necessity, that there can be no tribunal, above their authority, to decide, in the last resort, whether the compact made by them be violated; and, consequently, that, as the parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition."

From the Kentucky resolutions, responding to those of Virginia, and penned by Mr. Jefferson, Mr. H. quoted the following declaration :—

"That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress."

The legislature of Kentucky, in 1799, reëffirmed their resolutions of the preceding year. From their proceedings, Mr. H. read, in support of his theory, the following declarations: "That the principle and construction contended for by several of the state legislatures, that the general government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism; since the discretion of those who administer the government, and not the constitution, would be the measure of their powers. That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and, that a nullification, by those sovereignties, of all unauthorized acts, done under the color of that instrument, is the rightful remedy."

Mr. Webster said he had much respect for the constitutional opinions of Mr. Madison; but possibly a wrong construction might have been given to the resolution to which Mr. Madison had given his sanction. That resolution declared, that, in case of the dangerous exercise of powers not granted to the general government, the states might interpose to arrest the progress of the evil. But how interpose? Did it mean no more than that the people, in any mode of assembling, might resist usurpation? No one would deny this. Nor would it be denied, that the people might, if they chose, throw off any government when it became oppressive and intolerable, and erect a better one. This was the right of revolution. But what the gentleman contended for, was, that it was constitutional for a state, in form of law, in virtue of its sovereign capacity, to interrupt the administration of the constitution itself, in the hands of those who were chosen and sworn to administer it. [Appendix, Note E].

Mr. W. admitted that unconstitutional laws were not binding. But the great question was, whose prerogative was it to decide whether a law was constitutional or not? The proposition, that a state has a constitutional right to annul a law supposed to be unconstitutional, he denied. Under the constitution, there was no mode in which a state government, as a member of the union, could interfere, and stop the progress of the general government, by force of her own laws, under any circumstances whatever.

This led him to inquire into the origin of the government, and the source

of its power. Was it the creature of the state legislatures, or the creature of the people? "The doctrine for which the gentleman contends," said Mr. Webster, "leads him to the necessity of maintaining, not only that the general government is the creature of the states, but that it is the creature of each of the states, severally; so that each may assert the power, for itself, of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity arises from a misconception as to the origin of this government in its true character. It is the people's constitution, the people's government; made for the people; made by the people; and answerable to the people. The people of the United States have declared that this constitution shall be the supreme law. The states are sovereign so far as their sovereignty is not affected by this supreme law. But the state legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the general government, so far the grant is good; and the government holds of the people, and not of the state governments. The general government and the state governments derive their authority from the same source. Neither can, in relation to the other, be called primary; though one is definite and restricted, and the other general and residuary. The national government possesses those powers conferred on it by the people; the rest belongs to the states and the people."

But in erecting this government and giving it a constitution in which they have defined its powers, the people, he said, had done but half their work. No definition could be so clear as to avoid possibility of doubt. Who then should construe this grant of the people? With whom did they repose the ultimate right of deciding on the powers of the government? They had left it with the government itself, in its appropriate branches. Their design was to establish a government that should not be obliged to act through state agency, or depend on state opinion and state discretion. The constitution, and the laws made under it, are declared to be supreme; and it is declared that "the judicial power shall extend to all cases arising under the constitution and laws of the United States." These two provisions covered the whole ground. They were the key-stone of the arch. With these it was a constitution; without them, it was a confederacy. In pursuance of these clear and express provisions, congress established, at its very first session, in the judicial act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the *final decision of the supreme court*. It then became a government; it then had the means of self-protection

Mr. Hayne again replied to Mr. Webster, and re-affirmed the doctrine of his former speech, on the authority of Mr. Madison's report, "that where resort can be had to no common superior, the parties to the compact must themselves be the rightful judges," &c.; and he denied the doctrine of Mr. Webster, that the federal government had "the power of deciding ultimately and conclusively upon the extent of its own authority." The states in forming the compact, had not surrendered their sovereignty. A compact between two, with a right reserved to one to expound the instrument according to his own pleasure, was no compact at all, but an absolute surrender of the whole subject matter to the arbitrary discretion of the party who was constituted the judge. The states being parties to the compact in their capacity *as states*, and being sovereign and equal, having no common superior, there could be no tribunal above their authority to decide whether the compact had been violated; and the federal government was bound to acquiesce in the solemn decision of a state thus acting in its sovereign capacity. He went into a long argument attempting to prove that the supreme court had not the power to decide in such cases, and said, if congress should attempt to enforce an unconstitutional law, they would put themselves clearly in the wrong; and the state would have the right to *exert its protecting power*.

Mr. Webster, in a very brief reply, stated Mr. Hayne's propositions to be: (1.) That the constitution is a compact between the states; (2.) That a compact between two, with authority reserved to one to interpret its terms, would be a surrender to that one of all power whatever; and (3.) As an inference from these propositions, that the general government does not possess the authority to construe its own powers.

"Now, sir," said Mr. W., "who does not see, without exposition or detection, the utter confusion of ideas involved in this so elaborate and systematic argument? The constitution, it is said, is a compact between states: the states, then, and the states only, are parties to the compact. How comes the general government itself a party? Upon the honorable gentleman's hypothesis, the general government is the result of the compact, the creature of the compact, not one of the parties to it. Yet the argument, as he has now stated it, makes the government itself one of its own creators. It makes it *a party to that compact to which it owes its own existence*. For the purpose of erecting the constitution on the basis of a compact, the gentleman considers the states as parties to that compact; but as soon as his compact is made, then he chooses to consider the general government, which is the offspring of that compact, not as its offspring, but one of its parties; and so, being a party, has not the power of judging on the terms of compact. Pray, sir, in what school is such reasoning taught? * * *

"The gentleman says, if there be such a power of final decision in the general government, he asks for the grant of that power. Well, sir, I show him the grant—I turn him to the very words—I show him that the laws of congress are made supreme; and that the judicial power extends, by express words, to the interpretation of these laws. Instead of answering this, he retreats into the general reflection, that it must result, from the nature of things, that the states being parties, must judge for themselves."

Mr. W. argued farther, that, even supposing the constitution to be a compact between the states, that doctrine was not maintainable; because, first, the general government was not a party to the compact, but a government established by it, and vested by it with the powers of trying and deciding doubtful questions; and, secondly, if the constitution were regarded as a compact, not one state only, but all the states, were parties to it; and one alone could have no right to fix upon it her own peculiar construction. Yet the doctrine was, that Carolina alone might construe and interpret that compact which equally bound all, and gave equal rights to all. But the constitution, he said, was not a compact between state governments; the constitution itself declaring, that it was ordained and established by "the people of the United States." It did not even say that it was established by the people of the several states; but by the people of the United States in the aggregate. The confederation was strictly a compact between the states, as states; but that was found insufficient, and the people, not satisfied with it, had established, not a confederacy, not a league, not a compact between states, but a general government, directly responsible to the people, and divided into branches with prescribed limits of power, and prescribed duties.

Mr. Benton thought the power claimed by Mr. Webster for the supreme court was no less than a despotic power. That court was called supreme in reference to inferior courts—the district and circuit courts—and not in reference to the states of the union. A power to decide on the federal constitutionality of state laws, and to bind the states by the decision, was a power to govern the states.

Mr. Rowan, of Kentucky, protested against the doctrine of Mr. Webster, which denied that the constitution was a compact formed by the states, but which asserted that it was a government formed by the people, and for the very purpose, among others, of imposing certain salutary restraints on state sovereignties. And the idea that the people had conferred upon the supreme court such a power, was a fallacy. He believed these doctrines struck at the root of all our free institutions, and led directly to a consolidation of the government. They had been inferred from the tenor of the first message of the late president Adams

.o congress. Now, the explicit avowal of them by the honorable senator removed all doubt from the subject. We could no longer doubt as to the political faith of Mr. Adams. His most zealous and distinguished apostle had avowed it. "The two parties," said Mr. R., "are now clearly distinguishable by their opposite political tenets; the one headed by our illustrious chief magistrate, who is the friend and advocate of the rights of the states; the other party is now headed by the senator from Massachusetts." Mr. R. undertook, by a long and able argument, to disprove these doctrines, and to show that the union had not been formed by the people of the United States in the aggregate, but in the capacity of states; and the union was one of state sovereignties. The only security to the liberties of the people was in the protecting power of the sovereignty of their respective states; and when that sovereignty was subjected to the will of the supreme court, the people were subjected to the same tribunal; and after all their vigilance and caution, in guarding against oppression from their rulers, they were, by this doctrine, to be subjected to the rule of a judicial aristocracy, whose tenure of power was for life, and irresponsible. He held that a state being sovereign, and owing allegiance to no higher power, it could not, by resisting a law of congress, commit treason or rebellion.

After having spoken of the means of peaceable resistance, on the part of a state to an unconstitutional law, by nullifying resolutions, and other expressions of the public will, as having a rebuking effect of sufficient force to secure redress, he says: "But if these results should not follow, you ask me, what next? Must the state forbear to resist the aggression upon her sovereignty, and submit to be shorn of it altogether? I answer, no, sir, no; that she must maintain her sovereignty by every means within her power. She is good for nothing, even worse than good for nothing, without it. This, you will tell me, must lead to civil war—to war between the general government and the resisting state. I answer, not at all, unless the general government shall choose to consecrate its usurpations by the blood of those it shall have attempted to oppress. And if the states shall be led, by apprehensions of that kind, to submit to encroachments upon their sovereignties, they will most certainly not remain sovereign long. Fear is a bad counselor, of even an individual; it should never be consulted by a sovereign state."

Several questions here naturally suggest themselves to the reader. The Virginia and Kentucky resolutions, among whose authors and exponents were Mr. Jefferson and Mr. Madison, were in this debate adduced as authority for nullification, and that, too, by force, if necessary. If, as these resolutions declare, a state, in case of a supposed unconstitutional

act of congress, has "a right to judge for itself, as well of infractions as of the mode and measure of redress;" and if redress can not be had in any other way, it may be asked, Do these resolutions authorize a forcible resistance? Was nullification a distinctive doctrine of the Jackson party? Concerning the former question it may be said, that a strict construction of those resolutions would seem to justify a resort to force to obtain redress. Such construction, however, is at the present day rejected by a majority of those who approve the resolutions. Force, in the last resort, was plainly asserted by Messrs. Hayne and Rowan to be a constitutional mode of resistance; and we are not aware that any administration senator who succeeded them in the debate, except Mr. Livingston, admitted the existence of any authority in the general government to bind a state by its decision. Nor are we aware that any senator disclaimed the avowal of Mr. Rowan, that these were the distinctive doctrines of the administration party. This avowal, and the tacit consent which it received in the senate, and the prompt response to it of leading men and presses of the administration party, who hailed the views of state rights expressed by Mr. Hayne as "the true democratic doctrine," for the defense of which "the democrats of the union owed him a debt of gratitude;" indicated a recognition of them as party doctrines.

It is true, however, that, although the theory of Mr. Hayne seems to have been maintained by nearly all the administration senators who argued this point, and the existence of a power in the general government to decide upon the binding force of a law of congress to have been denied; all of them *did not assert the right of violent resistance*; as will appear from the speeches of those who followed in debate.

Mr. Grundy denied the right of the legislature of a state to declare the nullity of a law, and to prevent its execution; but gave it to a convention chosen by the people.

Mr. Woodbury did not coincide in the assertion of a *constitutional* right of preventing the execution of a law believed to be unconstitutional; the people were supreme, and could and would, in their omnipotence, and for sufficient cause, "always apply a most sovereign remedy,"—evidently meaning force—*if other means of redress should fail*.

Mr. Livingston, an administration senator, in his views of the nature of the constitution, and of the powers and rights of the parties to it, dissented in a measure from all who had preceded him. He thought it dangerous, on the one hand, to establish a constitutional veto in each of the states, upon any act of the whole, to be exercised whenever the legislature may suppose such act unconstitutional; and on the other, it was dangerous to the state governments, to consider that of the United

States entirely popular, and to deny the existence of a compact. While he held that the general government could not have been brought into being without a compact, he admitted that there were in it characteristics of a popular kind—marks of a more intimate union and amalgamation of the interests of the citizens of the different states. The entire sovereignty of the states, individually, had not been retained. The government, also, for the most part, (except in the election of senators, representatives, president, and some other officers,) acted directly upon individuals, and not through the medium of state authorities. This was an essential character of a popular government. He placed little reliance, however, on the argument, that the preamble to the constitution begins with the words, "We the people." It only proved that the people of the several states had been consulted, and had given their consent to the instrument. The people of each state had been consulted, to know whether that state would form a part of the United States, under the constitution; and to that they had given their assent, simply as citizens of that state. [Note F.]

The government, then, Mr. L. said, was neither a federative compact which left to all the parties their full sovereignty, nor such a consolidated popular government as deprived them of the whole of that sovereign power. It was a compact by which the people of each state had consented to the transfer of certain powers from their state legislature to the general government. As to all these attributes of sovereignty, which by the federal compact were so transferred, the general government was supreme; the states had abandoned, and could never reclaim them. All other sovereign powers were retained by the states.

Mr. L. then considered the powers of the supreme court, in regard to which he took substantially the same view as Mr. Webster. He said the states had not only given certain powers to the general government, but had expressly given also the right of enforcing obedience to the exercise of those powers. They had declared the constitution, and laws made in pursuance of it, to be supreme; and they had also expressly consented, that the judiciary of the United States should have cognizance of all cases coming under those laws. As the constitution is paramount to a law of the United States, and as both are paramount to a law of the state, the supreme court of the United States must, of necessity, in a disputed case legally before it, determine the question; and its decision must be final; the states must be bound; for in this compact they had agreed that their citizens should be so bound.

This question was argued at length by Mr. L., with great clearness and ability; and we regret that we can not afford space for a greater portion of his speech. He controverted that interpretation of the Vir

ginia and Kentucky resolutions which authorized a state to resist the execution of a law of congress, except in a case of intolerable and unconstitutional oppression, which was not a right under the constitution, but the undisputed right of revolution.

Mr. Smith, of S. C., dissented from the views of his colleague and other administration senators in relation to the disposition of the public lands; but concurred with them generally on the subject of the powers of the state and general governments.

The speakers who followed Mr. Webster on the same side, expressed essentially the same views in relation to the great constitutional question. Several of them displayed great ability; and, like others, digressed from the subject of inquiry proposed by the resolution, traversing the whole field of incidental topics drawn into the discussion. On the whole, the debate was one of surpassing interest. It abounds with historical facts of great importance; which alone are of sufficient value to repay its perusal.

A bill passed the senate at this session to reduce the price of public lands having been for a certain time in market, and to grant a preference to actual settlers, by selling to them at a lower price than to non-settlers. It reached the house at a late period of the session, and was laid on the table for want of time to consider it.

A bill was reported in the house, to distribute the proceeds of the sales of the public lands, after the payment of the public debt, among the several states for purposes of education, in proportion to their representation, severally, in congress. The question was discussed at length, prior to the report; but the bill reported was not acted upon

CHAPTER XL.

UNITED STATES BANK.—MAYSVILLE ROAD BILL, AND OTHERS.—VETOES OF THE PRESIDENT.

THAT part of the president's message which related to the bank of the United States, was referred, in the house, to the committee of ways and means, who made a most elaborate report on the subject, on the 13th of April, 1830. The report was made by Mr. M'Duffie, of South Carolina, from whose pen it probably emanated. He was a supporter of the administration. The bank question had several times been an agitating element in our national politics. The public mind had again become quiet on the subject, and apparently regarded the bank as having become

a permanent fiscal agent of the government, the charter of which, at its expiration in 1836, would, it was presumed, be renewed, almost as a matter of course. The revival of this question under such circumstances, and at a period nearly six years before application for a recharter of the institution was to have been expected, gave occasion for not a little speculation as to the cause of so early an agitation of this slumbering subject.

The report of the committee presented the following questions for the decision of congress :

1st. Has congress the constitutional power to incorporate a bank, such as that of the United States?

2d. Is it expedient to establish and maintain such an institution?

3d. Is it expedient to establish "a national bank, founded upon the credit of the government and its revenues?"

In maintaining the affirmative of the first of these questions, the committee stated, that the first bank had been incorporated when most of the leading members of the convention of the framers of the constitution were in the executive and legislative councils of the nation. There having been as yet no organization of political parties, the decision of the question was presumed to have been unaffected by that party prejudice which impairs the public confidence in a legislative interpretation of the constitution.

The renewal of its charter, in 1811, had been prevented chiefly, the committee believed, by the then existing state of political parties. Mr. Jefferson and Mr. Madison, the former in the cabinet, and the latter in congress, had opposed the first bank on constitutional grounds; and as they had subsequently been placed at the head of the party most unfavorable to the extension of the powers of government by implication, the bank question came to be regarded as, in some degree, a test of political principle. Some of the most distinguished republicans, however, including Mr. Gallatin and Mr. Crawford, were in favor of the renewal. It was at the time of the embargo and non-intercourse measures—a time of violent party excitement—when the leading federalists, who were in favor of the bank, were peculiarly odious to the republicans. Prejudice against the institution was increased also by the fact, that the greater part of its stock was held by British subjects and federalists. Yet, with all these difficulties to encounter, the question of renewal was lost only by the casting vote of the president of the senate, vice-president George Clinton, and by a majority of one vote in the house of representatives.

Within three years thereafter, and before the close of the war, the circulating medium had become so disordered, and the public finances so

deranged, that the secretary of the treasury, Mr. Dallas, with the sanction of Mr. Madison and his cabinet, recommended to congress the establishment of a bank, to revive the public credit, and to redeem the fiscal resources of the government from embarrassment. A bill was passed by both houses, and vetoed by him; not, however, on constitutional grounds—he considered the question of constitutionality settled—but on account of objections to certain provisions of the bill. Another bill was immediately introduced, and would probably have become a law, had not the news of peace induced congress to suspend further proceedings until the next session. The attention of congress was then again directed to the subject by the president and his secretary; and, against the opposition of the state banks, and the debtor class of community, a bill was passed, and approved by Mr. Madison.

The committee then proceeded to discuss the constitutionality of a national bank. The power of congress to create a corporation had been denied. If congress, under the “power to pass all laws necessary and proper to carry into effect powers” expressly granted, might inflict the punishment of death without any other authority, why might it not pass a law for creating a corporation? The chartering of a bank does not authorize the corporation to do any thing which the individuals composing it might not do without a charter. The only material particular in which the charter of the bank conferred a privilege upon the corporation apparently inconsistent with the state laws, was the exemption of the individual property of the corporators from responsibility for the debts of the corporation. But if the community dealt with the bank knowing that the capital subscribed was alone liable for its debts, no one could complain of imposition or injury. The real complaint against the bank was, not that it had not sufficient basis for its credit, but that its credit was too extensive: not against the artificial character communicated to the stockholders by the charter, but against the pecuniary operations of the bank itself. These operations consisted in the use of its own capital—a faculty not derived from the government, but on the exercise of which the government imposes many useful restrictions for the benefit of itself and of the community. This analysis of a bank corporation was intended to show that it was not an unfit instrument in the hands of a government admitted to be sovereign in its appropriate sphere, for carrying into effect the powers expressly delegated.

The committee say: “It will be no less instructive than curious, to notice some of the changes made in the opinions of prominent men yielding to the authority of experience. Mr. Madison, who was the leading opponent of the bank created in 1791, recommended and sanctioned the bank created in 1816; and Mr. Clay, who strenuously opposed

the renewal of the charter in 1811, as strenuously supported the proposition to grant the charter in 1816."

In discussing the second question—that of expediency—the committee assumed as a fact, the continued existence of a state paper currency, which could not be prohibited by congress. But if it could be, they question the expediency of suddenly withdrawing one hundred millions of bank credit. The question really presented was, not between a metallic and a paper currency, but between a paper currency of uniform value, subject to a competent controlling power, and a paper currency of fluctuating value, and subject to no adequate control. A large number of local banks had sprung up in consequence of the withdrawal of the fifteen millions of bank credit, by the winding up of the first bank of the United States. These banks, free from the control formerly exercised by that bank over the local institutions, made excessive issues, which speedily involved the country in all the embarrassments of a disordered currency.

From a scale of depreciation of the local currency, presented by the committee, it appeared that the paper of the banks in Washington and Baltimore was from 20 to 22 per cent. below par. At Philadelphia, 17 to 18 per cent. At New York and Charleston, it was from 7 to 10 per cent. In western Pennsylvania, it was 25 per cent. But this *relative* depreciation of bank paper at different places, as compared with specie, was not the worst evil produced by excessive issues of bank paper. The value of money, whether specie or paper, depreciated in proportion to the increase of its quantity. Hence if the circulating medium should be doubled, the prices of commodities would increase in the same proportion, let the credit of the bank bills be ever so good. Therefore, an individual who had borrowed a sum of money in 1816, when there was so great a redundancy of money caused by the increased issues of bank paper, and who paid the debt in 1820, when money had regained its natural value, evidently returned to the lender double the value received from him. The power of banks to suspend specie payments, and arbitrarily to contract and expand their issues, without any general control, exercised a dangerous and despotic power over the property of the community.

The government, the committee said, had sustained great losses, in its fiscal operations, during the war, for the want of a sound currency. It had borrowed during this short period, 80 millions, at an average discount of 15 per cent., giving certificates of stock, amounting to 80 millions, in exchange for 68 millions in such bank paper as could be obtained. Here was a loss of 12 millions, which would probably have been saved by a national bank. But this sum of 68 millions was received in a depreciated currency, not more than half as valuable as that in which the stock given in exchange for it had been and would be redeemed. Here was a loss of 34 millions more.

The committee controverted the statement of the president in his message, that the bank had "failed in the great end of establishing a uniform and sound currency." He probably referred to the fact, that the bills issued by any one of its branches are not redeemed by all the other branches. To have required this, would have been inexpedient and unjust. The effect would have been to compel the bank to perform the whole of the commercial exchanges of the country without compensation.

It was not denied that the bills of the bank and all its branches were invariably redeemed at their respective offices; nor was it denied that they were equal to specie in their respective spheres of circulation. If a Philadelphia merchant had silver instead of bank bills, he could not effect his purchases in New Orleans without paying for its transportation and insurance. These expenses constituted the natural rate of exchange between the cities, and indicated the sum which the merchant would give as a premium for a bill of exchange, to avoid the trouble and delay of transporting his specie. And the bills of the bank would purchase a bill of exchange precisely as well as silver.

The committee adverted to the great reduction which the bank had effected in the rate of commercial exchanges; and to its having actually furnished a circulating medium more uniform than specie; which was demonstrated by the fact that a Louisiana planter, if the whole circulating medium were specie, would, in order to make purchases in Philadelphia, be obliged to pay more either for a bill of exchange or for the transportation and insurance of his specie, than it would cost to buy at the branch at New Orleans a draft upon the mother bank at Philadelphia. If, however, he did not choose to purchase a draft, he might transmit the bills to the most distant point, where, being receivable in payment of all dues to the government, persons would receive them at par; and the bank would frequently receive them at par, and always at a discount less than would pay for transporting the specie. And for purposes of revenue, the bank gave to the national currency perfect uniformity—a perfection to which a currency of gold and silver, in so extensive a country, could have no pretensions. A bill wherever issued, was of equal value with specie in payment of duties at any other place, however distant, where the bank issued bills, and the bank collects revenue.

The bank also served to enforce specie payments by the local banks, and had aided them in doing so. It had been said that the government, by making the resumption and continuance of specie payments the condition upon which the state banks should receive the government funds, might have restored the currency to a state of uniformity. Not only could not this object have been accomplished in this way, but such a connection between the federal government and the state banks would, as the

committee believed, be dangerous to the purity of both; and they gave at length their reasons for this opinion.

The management of the bank, for the last ten years, was spoken of in high terms by the committee. It had been such as to accomplish the great ends for which it was established, and to promote the permanent interest of the stockholders, with the least practicable pressure upon the local banks. It had also carefully abstained from bringing its power and influence to bear upon political questions.

In discussing the third question, the expediency of establishing "a national bank founded upon the credit of the government and its revenues," the committee presumed it to have been the intention of the president to be understood as having allusion to a bank of discount and deposits. Such a bank must have branches similar to those of the present bank. It was not sufficient for commercial purposes, that persons in remote parts of the union had the promise of being paid specie for its notes at a central bank at the seat of government. The place of redemption being so remote from the place of circulation, as to prevent their being presented for payment without great expense, they must be of very unequal value in different parts of the country. Its loans also must be confined principally to the place of its location. If it had as many branches as the bank of the United States, which employed five hundred agents in its various places of business, a vast addition would be made to the patronage of the executive; and, what was worse, was the power of patronage resulting from the dispensation of bank accommodations to the amount of fifty millions of dollars!

The government was not adapted to a business of this kind. Capital thus employed required a vigilant and skillful superintendence, such as could be expected only from those who were influenced by the ever active motive of individual interest. Private friendship and political attachment would operate on the directors of a government bank to bestow its favors without impartiality or prudence; and losses would be sustained by the insolvencies of government debtors. Experience had demonstrated the danger of having large masses of the community indebted to the government. But the strongest objection to a government bank was the powerful, and in the hands of a bad administration, the corrupting influence which it would exercise over the elections of the country. With such a tremendous engine in their hands, it would be almost impossible to displace them without some miraculous interposition of Providence.

A report like the foregoing, from a committee of seven members, five of whom were friends of the administration, was unexpected; and that Mr. M'Duffie, the author of the report, should have departed so far from the southern principle of strict construction, as to assert so doubt-

ful a power as that of incorporating a national bank, was a cause of wonder—and the more so, since this power was more extensively questioned than that claimed for a protective tariff, so flatly denied by Mr. M'Duffie and his southern friends.

Pursuant to a resolution of the senate, the finance committee of that body also, on the 29th of March, made a report on "the expediency of establishing a uniform national currency for the United States." The committee consisted of five members, three of them political friends of Gen. Jackson, of whom was the chairman, Mr. Smith, of Maryland. The report maintained, that there existed a sound and uniform currency, both for the government and the community, furnished by the bank of the United States; and they declared the objections to the president's proposed government bank to be "insuperable and fatal," and the scheme to be "impracticable."

A bill to authorize the general government to subscribe to the stock of the Maysville and Lexington turnpike road, in the state of Kentucky, was passed by both houses at this session, but received the veto of the president. In his message returning the bill with his objections to the house of representatives, he refers to his annual message for an exhibition of his views on the subject of internal improvements. He refers also to the opinions of Madison and Monroe on similar occasions. To justify an appropriation for internal improvement, the object must be one of common defense, and of a *general* and *national*, not a *local* or *state* benefit.

The last administration, he said, had carried the appropriating power to the utmost extent claimed for it; and it would be difficult, if not impracticable, to bring back the operations of the government to the construction of the constitution set up in 1793; assuming that to be its true reading in relation to the power under consideration.

He objected also, that the bills already passed, and those which would probably pass before the adjournment of congress, anticipated appropriations which, with the ordinary public expenditures, would exceed the amount in the treasury for the year 1830. Adding to these the amount required by the bills then pending, the excess over the treasury receipts, (the revenue having been diminished by the reduction of the duties on tea, coffee, &c.) would exceed ten millions of dollars.

On the question of the passage of the bill notwithstanding the objections of the president, a short, though animated and acrimonious debate arose, in which some of the president's political friends expressed a strong dislike to the veto message. Mr. Daniel, of Kentucky, had supported the measure, but was disposed to give the people an opportunity to consider coolly the objections urged by the president. His views on

constitutional power coincided mainly with the message, although he did not agree, in every particular, with the doctrine contained in it. He was in favor of internal improvements, but thought the system, as it had been heretofore pursued, and as it had been attempted at the present session would soon involve the nation in an immense debt.

Mr. Stanbery, of Ohio, also of the administration party, considered the message as the voice of the president's chief minister, rather than of the president himself. The hand of the "great magician" was visible in every line. The apprehension of a want of money to meet this small appropriation he thought unfounded. Most of the bills were merely the evidence of the opinions of the committees who had reported them, and would not become laws. The document was artfully contrived to bring the system of internal improvement into disrepute, and to deceive the people. It could never have issued from the president. The appropriations which had been made, had been asked for by the executive officers themselves, who had asked for more than had been granted. The most extravagant project this session, which he feared would for ever disgrace this congress, was the removal of all the southern Indians, and had come recommended as the peculiar favorite of the executive. Many members had been induced to vote for the bill, contrary to their consciences, not having had independence to oppose the wishes of the president. He (Mr. S.) had many reasons for his opposition to that bill: one was the belief that its passage would strike a death blow to the whole system of internal improvement. It had received the support of all the enemies to that system.

Mr. Polk replied to Mr. Stanbery in very severe terms, calling him "a covert, political adversary," and charging him with having recently formed new associations; and proceeded to defend the president from the aspersions cast upon him. He (the president) had followed the examples of Madison and Monroe; and had achieved a civil victory which would shed more lustre upon his future fame than many such victories as that of New Orleans; for he had, by this single act, done more than any man in this country, for the last thirty years, to preserve the constitution, and to perpetuate our liberties. Mr. P. animadverted with equal severity upon certain remarks of Mr. Chilton, a former supporter of the president, who had asked if congress were to be controlled by one man. He defended the veto power as a wholesome check upon the acts of the legislature.

The debate was continued by Messrs. P. P. Barbour, of Virginia, Bell and Isaacs, of Tennessee, and Wayne, of Georgia, on the same side; and by Mr. Vance, of Ohio, in opposition. Mr. Sutherland, of Pennsylvania said he would vote for the bill, though he was a friend of

Gen. Jackson. He represented a state which was friendly both to the president and to the system of internal improvements, which would yet universally prevail. The question was decided by a vote of ayes, 96, noes, 90. Not having received the votes of two-thirds of the house, the bill was rejected. The vote of the house on its passage before it had been presented to the president, was 96 to 87; and that of the senate, 24 to 18.

Many of the friends of Gen. Jackson, who, by his course in the senate, and his explicit assurance in his answer to the legislature of Indiana, of his adherence to the tariff and internal improvement systems, were both disappointed and displeased at this exercise of the veto power, regarding it as an abandonment of his former principles. To the south, the act was peculiarly gratifying; and it was defended by a large majority of his friends even at the north, who either declared their opposition to the system, or regarded the veto, not as evidence of hostility to the system, but simply as being demanded by the unconstitutionality of this particular measure. Southern feeling was truly represented by Mr. P. P. Barbour on the rejection, at the same session, of the Buffalo and New Orleans road bill. The house having decided against the third reading of the bill, 105 to 88, Mr. B., thinking "that the house had done enough for glory for one day, moved that it now adjourn." The house, however, on that occasion, by a larger vote, refused to adjourn.

Another bill, authorizing a subscription to the Washington Turnpike company, was also negatived at this session by the president; and two others, one authorizing a subscription to the Louisville and Portland canal company; another, appropriating money for lighthouses, improving harbors, directing surveys, &c., were retained until the next session of congress, when, in his annual message, December, 1830, he gave at length his objections to the bills, and to the system of internal improvements, and again suggested the propriety of a general plan by which an equal distribution of the surplus revenues should be made among the several states, to be used for purposes of internal improvements.

The committee, in the house of representatives, to which this part of the message was referred, Mr. Hemphill, of Pennsylvania, chairman, a friend of the administration, made a report, February, 1831, adverse to the views of the president. The report took a minute review of the practice of the government, showing that it had been, on the whole, favorable to internal improvements. The committee had little if any doubt as to the nationality or expediency of some of the bills passed at the preceding session, and vetoed by the president. Some parts of the message relating to this subject were severely commented upon, as likely

to lead to incorrect conclusions. The message stated the expenditures heretofore made for internal improvements at upwards of five millions of dollars; and the estimated expense of works partially and entirely surveyed and projected, at ninety-six millions. The president having been called on for a statement of all these works, had included in his report objects not considered by the committee as properly coming under the head of internal improvements. They did not consider works facilitating foreign commerce to be of such character; but the president had embraced in his report, the expenses of "building piers, improving ports, bays, and harbors, and of removing obstructions to the navigation of rivers;" and these made up nearly one-half of what was called "expenditures for internal improvements."

The committee concluded their report by offering a resolution, "That it is expedient that the general government should continue to prosecute internal improvements by direct appropriations of money, or by subscriptions for stock in companies incorporated in the respective states."

An act was passed at this session, "making additional appropriations for the improvement of certain harbors, and removing obstructions in the mouths of certain rivers," by large majorities: in the house by a vote of 136 to 53; in the senate, 28 to 6. An act was also passed, "for carrying on certain roads and works of internal improvement, and for providing for surveys," by large majorities. Whether the president regarded these bills as free from the objections to which former bills were liable; or whether he believed it the duty of the executive to yield to so decisive an expression of the wishes of the people through their representatives, we are not informed.

At the session of 1829-30, an act for the more effectual collection of impost duties, was passed. It was shown by Mr. Mallary, that enormous frauds upon the revenue had been committed, by means of false invoices and sample packages, and by various other expedients. It was estimated, that the treasury had been defrauded for the last ten years, to the amount of \$3,000,000 annually. Mr. M'Duffie, by way of amendment, offered a bill, previously reported by himself as chairman of the committee of ways and means, proposing an essential reduction of duties on iron, hemp, wool, cotton, raw, and manufactured; salt, sugar, molasses, &c. He was in favor, he said, of enforcing the collection of the revenue, even though he might object to the laws by which it was levied. But in this case he would do it by diminishing the duties, and thereby removing the inducements to evade them. Mr. M'Duffie occupied the floor several days, discussing the policy of the protecting system, and exhibiting what he deemed its pernicious effects upon the country.

The amendment of Mr. M'D. was negatived; and the bill after having been amended, became a law. Separate acts were passed; one "to reduce the duty on molasses, and to allow a drawback on spirits distilled from foreign materials;" another, "to reduce the duty on salt;" and still another, "to reduce the duties on tea, coffee, and cocoa." It will perhaps be recollected, that the duty on molasses was, in 1828, increased from five to ten cents a gallon, against the wishes of the people of a large portion of the northern and eastern states. It was alleged, at the time, that the object of this proposed increase of duty on this and certain articles was to "weigh down the bill" of that year, by making it objectionable to the friends of protection. This, with the additional fact, that the duties on tea, coffee, &c., had been laid for revenue only, was not now so much needed, doubtless facilitated the passage of these laws.

CHAPTER XLI.

GEORGIA AND THE CHEROKEES.—DEBATE ON THE "INDIAN BILL."—
OPINION OF THE SUPREME COURT.

THE establishment, by the Indian tribes, of independent governments within any of the states, with a view to a permanent location, and the expediency of arresting such location, had been made the subject of inquiry at the session of congress of 1827-8. It was referred to a committee, but no report was made: and the subject received no farther attention during Mr. Adams' administration. The determination expressed in the message of Gen. Jackson, to suppress the attempts of the Indians to establish and maintain governments of their own within the states of Georgia and Alabama, and to effect their removal beyond the Mississippi, or to permit their subjection to the sovereignty and legislation of those states, had been intimated almost immediately after the new administration came into power.

A delegation of the Cherokees were officially informed, that the government would sustain the states in exercising jurisdiction over the Indians within their limits, and that their exemption from the operation of the laws of those states was to be hoped for only by removal. In August, 1829, a proposition was made by the general government through Gov. Carroll, of Tennessee, to John Ross, principal chief of the Cherokees, to meet commissioners to be appointed by the president

to discuss the subject of their removal. This proposition was declined. From the oft repeated declarations of the Indians, of their indisposition to remove, it was well known that no offers could induce them to enter into a treaty on the subject.

In December following, an act was passed by the legislature of Georgia, annexing the different portions of their territory to the adjoining counties, extending over them the laws of the state, and annulling the laws and regulations of the Indians; the act to take effect the 1st of June, 1830. This act was followed by a memorial to congress, setting forth their grievance in the following pathetic terms:

"We are told, if we do not leave the country, which we dearly love, and betake ourselves to the western wilds, the laws of the state will be extended over us; and the time, the 1st of June, 1830, is appointed for the execution of the edict. When we first heard of this, we were grieved, and appealed to our father, the president, and begged that protection might be extended over us. But we were doubly grieved when we understood, from a letter of the secretary of war to our delegation, dated March of the present year, that our father, the president, had refused us protection, and that he had decided in favor of the extension of the laws of the state over us. This decision induces us to appeal to the immediate representatives of the American people."

Against the claim of Georgia to the right of soil and of jurisdiction over it, the memorial says: "When the white man came to the shores of America, our ancestors were found in peaceable possession of this very land. They bequeathed it to us as their children, and we have sacredly kept it as containing the remains of our beloved men. This right of inheritance we have *never ceded*, nor ever *forfeited*. Permit us to ask, What better right can a people have to a country than the right of *inheritance*, and *immemorial peaceable possession*? We know it is said of late by the state of Georgia, and by the executive of the United States, that we have forfeited this right. At what time have we made the forfeit? Was it when we were hostile to the United States, and took part with Great Britain, during the struggle for independence? If so, why was not this forfeiture declared in the first treaty of peace between the United States and our beloved men? This was the proper time to assume such a position. But it was not thought of; nor would our forefathers have agreed to any treaty whose tendency was to deprive them of their rights and their country."

As another evidence of their right to the lands in question, they had the faith and pledge of the United States, repeated over and over again, in treaties at various times, by which their rights as a separate people had been distinctly acknowledged, and guaranties given that they should

be secured and protected. Yet it was asserted that they held their lands only by a right of occupancy. They say: "In what light shall we view the conduct of the United States and Georgia, in their intercourse with us, in urging us to enter into treaties and cede lands? If we were but tenants at will, why was it necessary that our consent must be obtained before these governments could take lawful possession of our lands? * * * The undersigned memorialists humbly represent, that if their interpretation of the treaties has been different from that of the government, then they have ever been deceived as to how the government regarded them, and what she asked and promised.

"In view of the strong ground upon which their rights are founded, your memorialists solemnly protest against being considered mere tenants at will, or as mere occupants of the soil, without possessing the sovereignty. We protest against being forced to leave it, either by direct or indirect measures. To the land of which we are now in possession, we are attached—it is our fathers' gift—it contains their ashes—it is the land of our nativity, and the land of our intellectual birth. We do, moreover protest against the arbitrary measures of our neighbor, the state of Georgia, in her attempt to extend her laws over us, in surveying our lands without our consent, and in direct opposition to treaties and the intercourse law of the United States, and interfering with our municipal regulations so as to derange the regular operation of our own laws. The existence and future happiness of your memorialists are at stake: divest them of their liberty and country, and you sink them in degradation, and put a check, if not a final stop, to their present progress in the arts of civilized life, and in the knowledge of the Christian religion. Your memorialists can not anticipate such a result. You represent a virtuous, intelligent, and Christian nation. To you they willingly submit their cause for your righteous decision."

On the 29th of March, 1830, the attorney-general, Mr. Berrien, having been applied to for his opinion in relation to the title of the lands occupied by the Cherokees, communicated the same to the war department. He maintained, on the authority of decisions of the supreme court, that the right of the Indians to the lands in question, was one of occupancy merely. The court had declared, that, by the treaty with Great Britain which concluded the revolution, the powers of government and the rights to the soil which had been in Great Britain, passed definitively to the states; and that the United States, or the several states, had a clear title to all lands within the boundary lines described in the treaty, subject only to the Indian right of occupancy.

In confirmation of his opinion, he referred also to the treaties with this tribe. In the first, which was concluded at Hopewell in 1785, they

were manifestly considered as a conquered people ; and the terms of that instrument recognized the principle adverted to by the supreme court in the case of Johnson and M'Intosh, " that a conqueror prescribes the limits of the right of conquest : and that the limitations which humanity imposes upon civilized nations can not be applied and enforced in relation to a savage tribe." The treaty declares, that the United States "*give peace* to all the Cherokees, and receive them into the *favor and protection* of the United States of America, *on the following conditions.*" This language supposed that the tribe was no longer in an independent state, in which it could stipulate for itself that there should be peace between the United States and its people. It could receive peace only as a boon—as the mere favor of the conqueror. They were required to acknowledge themselves under the protection of this government, and to abjure all other protection. Thus humbled before their conqueror, a country had been assigned them in which they might dwell ; or, as expressed by the treaty, "*allotted* to the Cherokees for their *hunting grounds.*" No interest in the soil had been conferred ; the fee remaining in the state. Upon this principle, it was contended, all the subsequent treaties must be interpreted.

By a treaty made in 1817, the United States agree to exchange lands with those Cherokees who wished to remove beyond the Mississippi river, and to pay them for valuable improvements made on their lands. This treaty also provided, " that all those improvements, left by the emigrants within the bounds of the Cherokee nation, east of the Mississippi river, which add real value to the lands, and for which the United States shall give a consideration, and not so exchanged, shall be rented to the Indians, until surrendered to the nation or by the nation." The attorney-general maintained, that the United States, in consideration of these payments, became landholders in the Cherokee nation, within the limits of those boundaries which were yet reserved to them as hunting grounds. The exchanges and leases made under this agreement, gave to the parties exchanging and to the lessees the right of occupancy ; which was the utmost to which the Indian title amounted ; and to this title of occupancy, the United States had succeeded.

The title which the United States had thus acquired, they were bound by the compact of 1802, in which Georgia had ceded her western lands to the United States, to transfer to that state : whatever right was acquired by the United States, immediately inured to the benefit of Georgia, both because they had no right without the consent of Georgia, to acquire domain within the limits of that state, and because they had stipulated to acquire this title for that state. The supreme court had, in the case mentioned, decided that the United States or the several states, had a

title to all the Indian lands within their boundaries : and in the case of Fletcher and Peck, they had declared, with regard to the lands in Georgia occupied by the Indians, that the ultimate fee was in that state. Whether this right was to be exercised independently, or under the supervision of the federal government, the attorney-general said, was a question which would depend on the terms and validity of what was commonly called the Indian intercourse act.

A bill "to provide for an exchange of lands within any of the states or territories, and for their removal west of the river Mississippi," was reported by the committee on Indian affairs of each house. The bill of the senate, reported on the 22d of February, 1830, by Mr. White, of Tennessee, was taken up in committee of the whole on the 6th of April, and was debated until the 24th, when it was passed to the third reading, 28 to 19. The principal speakers in favor of the bill, were, Mr. White, who reported it, Mr. Forsyth, of Georgia, and Mr. Adams, of Mississippi; and Mr. Frelinghuysen, of New Jersey, Mr. Sprague, of Maine, and Mr. Robbins, of Rhode Island, in opposition.

Mr. Frelinghuysen moved an amendment to the bill, providing that, until the Indians should choose to remove, they should be protected in their possessions and rights of government; and that, before any exchange of lands should be made, *their* rights in the premises should be guarantied by treaty. And again at the close of the debate, he moved a proviso that nothing contained in the bill should "be so construed as to authorize the departure from, or non-observance of any treaty or agreement now subsisting between the United States and the Cherokee Indians." But these proposed amendments were all negatived.

As the removal of the Indians was a favorite measure of president Jackson, and as his policy towards them was alleged to be a departure from that which had been observed by all his predecessors, we consider it due to a subject of so much importance, and to the parties to the controversy, to subjoin a sketch of the principal arguments of some of the leading speakers who participated in the debate.

It ought, perhaps, to be here stated, that there was nothing in the bill itself, which made the removal of the Indians compulsory. The change of policy consisted in conceding to the states the right of soil, and in subjecting the Indians to the government of the states. Presuming that, if reduced to the alternative of submitting to the government and laws of Georgia and Alabama, or of exchanging their lands, they would choose the latter, the bill was intended to meet this contingency.

Mr. White, who reported the bill, but of whose speech we have no full report, is said to have conceded that the faith of the United States

had been repeatedly pledged to the Cherokees for their protection; but he contended that the general government ought not to perform its stipulations against the earlier and conflicting claims of Georgia; and that, if it had made engagements with Georgia and the Indians, which could not both be fulfilled, the prior engagement should be performed, and compensation should be made for the breach of the other.

Mr. Frelinghuysen, in reply, alluded to the early recognition by the government of the rights of the Indians under treaty stipulations. In a communication from Gen. Washington to the senate, August 22d, 1789, he submitted certain leading principles of policy which he thought proper to pursue, and which were embodied in seven distinct interrogatories; of which one was, "whether the United States should solemnly guaranty to the Creeks their remaining territory, and maintain the same, if necessary, by a line of military posts;" and which was answered in the affirmative. And in August, 1790, in another communication to the same body, he reminds them of the treaty with the Cherokees, at Hopewell, in November, 1785, by which they had placed themselves under the protection of the United States, and had a boundary assigned them. Intrusions upon their lands having been made by the whites, some of whom remained after having been enjoined to depart, the president announced his determination to exert his constitutional power in carrying into execution the treaty of Hopewell, unless a new boundary should be arranged, including the intrusive settlements, and compensating the Cherokees for the territory ceded. A new boundary was arranged, and solemnly guarantied by a new treaty. But this illustrious precedent of Washington and his constitutional advisers was not regarded by the present administration. Treaties were declared by the constitution to be the supreme law of the land; and the president and all other departments, officers and people, were bound by them.

Mr. F. maintained the political and civil rights of the Indians, first, on the ground of immemorial possession, as the original tenants of the soil; a title superior to that of the British crown, or any subsequent claim. Where was the decree or ordinance that had stripped these first lords of the soil? How could even a shadow of a claim to soil or jurisdiction be derived by forming a collateral issue between Georgia and the general government? Her complaint was against the United States for encroachments on her sovereignty. The Cherokees were no parties to this issue; they held by a better title than either Georgia or the union. They had treated with us, it was true, not, however, to acquire title or jurisdiction—these they had before; but to secure protection and guaranty for subsisting powers and privileges. And we had, in all our intercourse with them, recognized their title. All our acquisitions of territory

had been obtained by purchase and cession. We had also regarded them as nations, and respected their forms of government.

Mr. F. traced our history in these connections. As early as 1763, the king of Great Britain, in a proclamation issued to the American colonies, recognized the right of the Indians under our protection, to the undisturbed "possession of such parts of our territory as had not been ceded to or purchased by us;" and enjoined all persons who had "either wilfully or inadvertently scated themselves upon such lands," to remove from them. In 1775, on the eve of the war, we had approached them as independent nations having power to form alliances with or against us, for the purpose of engaging the continuance of their friendship. Their sovereignty had never been questioned by the illustrious statesmen of that period.

After the revolution (1783,) congress resolved to treat with the tribes of the middle and northern states who had taken up arms against us, "for the purpose of receiving them into the favor and protection of the United States, and of establishing boundary lines of property, &c., and thereby extinguishing, as far as possible, all occasion for future animosities, disquiet and contention." Instead of the claims of conquest, the rights of war, now so convenient to set up, congress accorded to these Indians the character of foreign nations, tendered them our favor and protection, and adopted measures to establish boundary lines of property between our citizens, and their villages and hunting grounds.

In 1785, was made the treaty of Hopewell, by which the Cherokees agreed to restore all prisoners, citizens of the United States, and subjects of their allies, to their entire liberty; and peace was to be given to the Cherokees, and they were to be received under the protection of the United States. Here, again, was a negotiation with the allies of our enemy without any pretense to the rights of a conqueror. Their weakness did not destroy their sovereignty. Vattel gave it as a rule of public law, "that one community might be bound to another by a very unequal alliance, and still be a sovereign state. Though a weak state, in order to provide for its safety, should place itself under the protection of a more powerful one; yet, if it reserves to itself the right of governing its own body, it ought to be considered as an independent state." Never had the southern Indians been disturbed in the enjoyment of this right, until the late legislation by the states of Georgia, Alabama and Mississippi.

This treaty also established territorial domains and forbade all intrusions upon them. A citizen of the United States remaining six months on the Indian lands, forfeited the protection of the government, and might be punished by the Indians.

When, in 1787, Georgia and North Carolina, in their protests to congress, asserted the right of states to treat with the Indian tribes, and to obtain grants of their lands, the subject was referred to a committee, who, in their report, argued conclusively, that, to yield such powers to particular states, would not only be absurd in theory, but would in fact destroy the whole system of Indian relations. After this, no more was heard of state protests.

Mr. F. referred to the power of congress to "regulate commerce with the Indian tribes," and to the treaty-making power; in the exercise of both of which was an implied recognition of them as foreign nations. And the convention of framers, to compel us to be faithful in the observance of treaties, had provided that they should be the "supreme law of the land, any thing in the constitution or laws of any state to the contrary notwithstanding."

The treaty of Holston was also adverted to, the preamble to which, commences thus: "The parties being desirous of establishing permanent peace and friendship between the United States and the Cherokee nation, and to remove the causes of war, by ascertaining their limits, and making other necessary, just, and friendly arrangements," &c., (the parties being named, "with full powers for these purposes,") "have agreed to the following articles," &c. Here again, all the forms of a treaty with a distinct nation were observed. Georgia had done the same herself, in 1777, where, with South Carolina, she met the Creeks and Cherokees at Dewitt's Corner, for the purpose of making a treaty with them; the representatives of both parties appearing with full powers." And as late as 1825, the governor of Georgia had issued a proclamation, forbidding intrusions, by the citizens of that state, "upon lands occupied by the Indians within its limits;" and adds: "All good citizens, therefore, pursuing the dictates of good faith, will unite in enforcing the obligations of the treaty as the supreme law," &c.—a treaty, said Mr. F., with the very Indians now asserted by Georgia to be below the reach of treaties.

The sentiments of Jefferson, Madison, and Monroe, were also cited to sustain the position he had assumed; but we have not room to pursue the arguments of this speech.

Mr. Forsyth followed Mr. Frelinghuysen in a long and able reply. He said, the first article of the treaty of Galphinton, of November, 1785, from which the gentleman had himself quoted, was as follows: "The said Indians, (the Creeks,) for themselves, and all the tribes or towns within their respective nations, within the limits of the state of Georgia, have been, and now are, members of the same, since the day and date of the constitution of the said state of Georgia." He thought this article

broad enough to sustain the claim of the state to sovereignty over the Creeks. If they were members of the state, as they had acknowledged themselves, what had become of their separate and independent character as a nation or tribe?

The treaty of Dewitt's Corner, of May, 1777, with South Carolina and Georgia, settled the question with the Cherokees. The first article was in these words: "The Cherokee nation acknowledged that the troops, during the last summer, repeatedly defeated their forces, victoriously penetrated through their lower towns, middle settlements, and valleys; and quietly and unopposed, built, held, and continue to occupy, the fort at Esenneca, thereby did effect and maintain the conquest of all the Cherokee lands, east of the Unicaye mountain; and to and for their people did acquire, possess, and yet continue to hold, in and over the said lands, all and singular, the rights incidental to conquest; and the Cherokee nation, in consequence thereof, do cede the said lands to the said people, the people of South Carolina." The Cherokees admitted the right of South Carolina, by conquest, to all the land in the valley below the Unicaye mountains, which were in Tennessee, beyond the territorial claims of South Carolina and Georgia; and no subsequent change in the political condition of the United States, could be used as a pretext for denying to Georgia the claim to sovereignty over the Cherokees within her limits.

The treaty of Hopewell, beginning with the words, "The United States give peace to all the Cherokees, and receive them into their favor and protection," surrendered to congress the power of legislating for them at discretion, thus: "For the benefit and comfort of the Indians, and for the prevention of injuries or oppressions on the part of the citizens or Indians, the United States, in congress assembled, shall have the sole and exclusive right of regulating trade with the Indians, and managing all their affairs in such manner as they shall think proper." This treaty, with its burthens and benefits, fell to the new government when it was established under the constitution. It might be said that, because the United States had sovereignty over the Cherokees, it did not follow that Georgia had it. But the power of legislation over the Cherokees acquired by the United States, had been transferred to Georgia by the compact of 1802. Georgia ceded to the United States all her right to the jurisdiction and soil of the lands lying west of the Chattahoochie, as far as Mississippi, &c.; and the United States ceded to the state of Georgia whatever claim, right, or title they might have to the jurisdiction and soil of any lands, lying within the United States, east of the eastern boundary of the territory ceded by Georgia to the United States, and south of the states of Tennessee, North Carolina, and

South Carolina. If gentlemen found fault with this transfer of power to Georgia, the justice of it must be settled by the United States and the Cherokees. Mr. F. thought it strange that the gentleman from New Jersey, when he quoted from these same treaties, had not seen the provisions to which he had directed his attention.

Mr. Forsyth said he was willing to meet the gentleman on the construction of these treaties; and invited him to present distinct resolutions, affirming that the Indians were independent, beyond the control of the states; that the fee simple of the land they occupied was theirs; that neither the general government nor the states could regulate their affairs; that treaties could only be made with them by the United States. The legislation of the states and of the United States, the judicial decisions of both the federal and state tribunals, all proved these positions untenable. Georgia, in exercising jurisdiction over the Indians within her territory, only followed the example of the New England states, New York, Virginia, North Carolina, South Carolina, and Maryland; and while the latter escaped censure, the former had drawn upon herself torrents of invective and reproach. This was to be attributed to the missionaries and their friends and patrons; to the few half-breeds and white men in whose hands is the Cherokee government, and who regulate the affairs and control all the funds of the tribe, and conduct a press supported by these funds. Another powerful agent was the delegation which the Cherokee government had at Washington, to defend the independence of the tribe. And knowing the value of money, the council had authorized the delegates to pay out of the treasury for any aid or advice they might wish to obtain.

The senator from New Jersey had asked, why Georgia had acquiesced in the exercise of the treaty-making power by the federal government. Georgia, having imposed upon the United States the obligation to extinguish the Indian title, did not consider herself authorized to interfere in the manner in which that obligation was performed. After a lapse of twenty-eight years, a large territory still remained unoccupied by the Indians: and was it surprising that the Georgians should inquire why it was that this compact had not been fully and faithfully executed?

Mr. F. complained of the acts of the general government. Treaties had been made by Georgia with the Indians before the adoption of the constitution. Their validity having been disputed, Gen. Washington, the first president, asked the advice of the senate on these points: Should an inquiry be made into the circumstances under which these treaties were held? If fairly held, should they be enforced by the union? If not valid, should they be made the bases of new arrangements with the southern tribes? These inquiries were answered in the affirmative

Investigation was made; the commissioners of the United States reported that these compacts had been made with the usual formalities and fairness of Indian treaties. But they were not enforced; an arrangement was preferred; and territory previously surrendered to the state by the Indians, was restored to them as hunting grounds: and the intercourse act of 1790 was passed to enforce this violation of state sovereignty. Georgia came here to protest against this new treaty, and against the law of 1790, as equally repugnant to her claims and to the constitution of the United States.

In 1817, through the agency of Gen. Jackson, a contract was made with the Cherokees, providing for their removal from Georgia; a contract made at their instance, and for the accommodation of that portion of them who occupied the lower towns, lying in Georgia, and desired to remove to the west to continue the hunter's life; those of the upper towns, lying out of Georgia, wishing to remain where they were. The contract was but partially executed; the interests of Georgia were sacrificed to the policy of the federal government. The Cherokees who wished to remain, threw obstacles in the way of emigration. Without apparent reasonable cause the contract of 1817 was abandoned, and that of 1819 substituted. The Cherokees remained; and the idea was held out to the tribe of a permanent residence, with a view to their civilization. This new arrangement led to the belief that Mr. Monroe's administration was not disposed to act fairly towards the state.

Mr. F. said he had been surprised to hear the senator from New Jersey quote from the royal proclamation of 1763, to prove that Great Britain had never asserted the right to legislate for the savages, or to appropriate their lands without a previous purchase. It asserted, 1st. The sovereignty and dominion of Great Britain over the Indians and Indian territory; 2d. That the Indians were, as subjects, under the protection of the crown; 3d. That the right to appropriate the land occupied by them resided in the crown. It contained grants to the whites, and reservations to the Indians as hunting grounds. The laws and usages of the colonies threw additional light on the subject. In war, the Indians had not been treated as a civilized enemy. The males had been put to death on the principle of retaliation; and the women and children sold into slavery for the benefit of the captors. In some states, rewards had been offered for captives, and dogs had been trained for pursuing Indian rebels.

On the declaration of independence, the authority previously exercised by Great Britain was assumed by the states, respectively, within their limits. In the war, the Indians were the allies of Great Britain, and were conquered. The right of sovereignty and domain which we

had acquired, covered the claim of legislation over them, and of title to the land they occupied. Our independence was acknowledged; and the treaty of peace was formed with the confederation; and there was nothing in the articles of the confederation which deprived the individual states of any portion of their sovereignty over Indians or Indian lands.

Mr. Sprague said, that we had with the Cherokees not less than fifteen treaties. The first was made in 1785, and the last in 1819. By several of them, we have guarantied to the Cherokees, 1st. Their separate existence as a political community; 2d. Undisturbed possession and full enjoyment of their lands within certain defined boundaries; 3d. The protection of the United States against all interference with or encroachments upon their rights by any people, state, or nation. For these promises on our part, we received ample consideration, by the restoration and establishing of peace; by large cessions of territory; by the promise, on their part, to treat with no other state or nation; and other important concessions. The treaties had been made with all the forms and solemnities necessary to make them binding. The Cherokees now come to us and say, that their rights are threatened by Georgia and Alabama, and ask for the promised protection.

The treaty of Dewitt's Corner had been cited, by which the Cherokees had acknowledged that a portion of their country had been conquered; and the same had been ceded to South Carolina. It had not been, for at least one generation, claimed or occupied by the Indians. What right, he asked, could this confer on Georgia to lands now owned and possessed by the Cherokees? This right had also been claimed on the ground of the transfer, by the United States, of all their power and claims under the treaty of Hopewell, to Georgia, by the compact of 1802. But did this relinquishment of the right of the United States to the soil and jurisdiction to the *lands*, purport to transfer a preëxisting *treaty* with the Indians? If it had been even so intended, it could not have been transferred. A guardian could not transfer his rights and duties at pleasure. By the constitution, Georgia had given to the United States the right to legislate in certain cases over her citizens for their benefit; for example, to organize, arm, discipline, and call forth her militia. Could the United States transfer this right to South Carolina? This right was required to be exercised by the United States "*in congress assembled.*" Could we, without the consent of the other party, strike out these words, and insert, *the legislature of Georgia*? Again; to see that this power was properly exercised, the treaty gave the Cherokees "the right to send a deputy of their choice, whenever they think fit, to *congress.*" Should he come here to watch over the legislation at Milledgeville?

But, though this power were transferable, it must be subject to the restrictions and limitations expressed in the treaty; among which were these: 1st. That the Cherokees should continue to exist as a distinct political community, under the protection of the United States; 2d. That they should enjoy the undisturbed possession of their lands; 3d. That the power to manage "their affairs" should be exercised "for the benefit and comfort of the Indians; and for the prevention of injuries and oppressions." But this did not give even the United States the right to drive them from their lands, or to strike the nation out of existence; and, instead of managing their affairs for their benefit, to annihilate them as a body politic.

The gentleman had passed over in silence a most important event, the treaty of Holston, made in 1791, by which the United States had again promised to protect the Cherokees in their rights as a nation, in the following language: "The United States solemnly guaranty to the Cherokee nation all their lands not hereby ceded." If any right had been transferred to Georgia, it was such only as existed at the time, and subject, of course, to the stipulations of the preëxisting treaty. We were bound to see our treaties fulfilled. The Indians had inquired of us whether we would perform our promise of protection. Should we say we had conveyed that promise to another—to Georgia? Would they not reply, that they had purchased our guaranty, and the protection of our strong arm, for the very purpose of securing them against the encroachment of their white neighbors in that state?

As to the compact of 1802, between the United States and Georgia, the Cherokees not being parties to it, it could not impair their rights, nor confer upon others any claim against them. Besides, the compact expressly recognized the Indian title; and the United States agreed to extinguish it only when it could be done "peaceably" and on "reasonable terms."

It had also been argued, that, before the revolution, Great Britain had had jurisdiction over the aborigines, and the sole right of treating with them, and that this power had been wrested from her by *conquest* during the war, and forever abandoned by the treaty of peace in 1783. If it had been obtained by conquest, it must have belonged to the conquerors. And who were the conquerors? The United States, who were also a party to the treaty of peace. It was upon this ground that New Jersey, Delaware, Maryland, and other states so strongly insisted that the crown lands, which had been acquired by the common arm, and at the common expense, belonged of right to the common fund. They succeeded in their demand. The several states having such lands successively ceded them to the general government, Virginia taking the lead.

Mr. S. also combated the pretension of Georgia, that, on becoming independent, in 1776, she had succeeded to the right which Great Britain had acquired by *discovery*. *Discovery*, he said, conferred no claim or right against the natives—the *persons discovered*—but only against future *discoverers*. It was said, that the rights derived from this source had been established and defined in Europe, upon the first discovery of this country. True; but it was by the mutual understanding and agreement of the nations of that continent only, in order to regulate their conduct among themselves. The sovereign who should find a country, theretofore unknown, should have the exclusive right to the benefits of the discovery, and to conduct toward the aboriginal inhabitants according to his conscience and ability.

The advocates of the bill had alleged, that the word treaty, in the constitution, did not mean a compact or contract with the Indian tribes. Mr. S. referred to a large number of instances to show that contracts with the Indians by Great Britain, from the first settlement of the country, as well as those made since, under the confederation and the constitution, had been called treaties. He had counted no less than one hundred and twenty-four Indian *treaties*, formed under the present constitution.

The following extracts from a speech of Gen. Washington to the Seneca Indians, in 1790, which were read by Mr. S., would show both the meaning of the word treaty, and the binding force of the contract to which it was applied, as understood by Washington.

"I, the president of the United States, by my own mouth, and by a written speech signed with my own hand, and sealed with the seal of the United States, speak to the Seneca nation.

"The general government only has the power to treat with the Indian nations, and any treaty formed without its authority, will not be binding.

"Here, then, is the security for the remainder of your lands. No state nor person can purchase your lands, unless at some public treaty held under the authority of the United States. The general government will never consent to your being defrauded; but it will protect you in all your just rights.

"But your great object seems to be the security of your remaining lands; and I have, therefore, upon this point, meant to be sufficiently strong and clear.

"In future you can not be defrauded of your lands. You possess the right to sell, and the right of refusing to sell your lands. The United States must be present when you sell, and will be your security that you shall not be defrauded in the bargain you shall make.

"You now know, that all the lands secured to you by the treaty of Fort Stanwix, excepting such parts as you may since have fairly sold, are yours, and that only your own acts can convey them away. Speak, therefore, your wishes on the subject of tilling the ground. The United States will be happy to afford you every assistance in the only business which will add to your numbers and happiness.

"The United States will be true and faithful to their engagements."

Reference was made to the language as well as the acts of the authorities and representatives of the states upon which it was asserted these treaties were not obligatory, to show that they had themselves considered them binding.

The bill passed by the senate, was taken up in the house, and committed to the committee of the whole, on the 26th of April, 1830. The debate commenced on the 13th of May, and closed on the 26th. Speeches in favor of the bill were made by Mr. Bell, of Tennessee, chairman of the committee on Indian affairs, and Messrs. Lumpkin, Foster, Wilde, Lamar, and Wayne, all of Georgia; against it, by Messrs. Storrs, of New York, Ellsworth and Huntington, of Connecticut, Evans, of Maine, Johns, of Delaware, Bates and Everett, of Massachusetts, and Test, of Indiana. In the house, as well as in the senate, the speeches were mainly argumentative; some of them, however, containing fine specimens of eloquence.

The vote on the passage of the bill, was 103 in favor of, and 97 against it. It had received some amendments in the house, which were concurred in by the senate.

The act appropriated \$500,000 for carrying its provisions into effect. It provided for an exchange of lands; those to which they should remove, to be guarantied to the Indians; but if the Indians should become extinct, or should abandon the lands, they were to revert to the United States. The Indians were to be paid for the improvements on the lands they occupied; to be assisted in their removal; and to be supported for a year thereafter.

A treaty with the Choctaw Indians was concluded on the 27th of September, 1830, by the secretary of war and Gen. Coffee. The Indians ceded their lands, and agreed to remove beyond the Mississippi, within three years. Those who chose to remain, as citizens of Georgia, were to have reservations of land for their use, and after residing upon them for five years, were to possess them *in fee*. The country was to be surveyed as soon as the government pleased, but no sale made previous to their removal; and intruders were to be kept out. The government was also to use its good offices with the state of Mississippi to suspend the operation of her laws, and with Alabama not to extend her laws into the na-

tion. They were to be governed in their western residence by laws of their own, which, however, were not to be inconsistent with those of the United States.

The Cherokees adhered to their determination not to emigrate, and on the 1st of June, 1830, they found themselves under the operation of the laws of Georgia. On the 11th of September, the Cherokee Phoenix, (the Indian paper,) contained the proceedings of a meeting of Cherokees, to which was appended a very pathetic appeal to the citizens of the United States, complaining of the infringements upon their rights by the state of Georgia, and of the withdrawal of the protection of the government, on the part of the executive. However variant may have been the opinions of the people in regard to the rights of the Indians, there could scarcely have been a difference of *feeling* on the perusal of their appeal, a few paragraphs of which we copy :

"People of America, where shall we look? Republicans, we appeal to you. Christians, we appeal to you. We need the exertion of your strong arm. We need the utterance of your commanding voice. We need the aid of your prevailing prayers. In times past, your compassions yearned over our moral desolations, and the misery which was spreading amongst us, through the failure of game, our ancient resource. The cry of our wretchedness reached your hearts; you supplied us with the implements of husbandry and domestic industry, which enabled us to provide food and clothing for ourselves. You sent us instruction in letters and the true religion, which has chased away much of our mental and moral darkness.

"Your wise president Jefferson took much pains to instruct us in the science of civilized government, and recommended the government of the United States and of the several states, as models for our imitation. He urged us to industry and the acquisition of property. His letter was read in our towns; and we received it as the counsel of a friend. We commenced farming. We commenced improving our government; and, by gradual advances, we have attained our present station. But our venerable father Jefferson never intimated that, whenever we should arrive at a certain point in the science of government, and the knowledge of the civilized arts, then our rights should be forfeited; our treaties become obsolete; the protection guarantied by them withdrawn; our property confiscated to lawless banditti, and our necks placed under the foot of Georgia.

"It has been frequently asserted, that we are willing, and even desirous to go on to the west. We assure our friends that it is not so. We love our homes; we love our families; we love to dwell by our fathers' graves. We love to think that this land is our great Creator's gift to

them; that he has permitted us to enjoy it after them; and that our offspring are preparing to succeed us in the inheritance. This land is our last refuge; and it is our own. Our title to it has no defect but the inferiority of our physical force; and this defect is amply supplied by our compacts with the powerful and magnanimous government of the United States. * * * Much has been done against us. Promises, threats, and stratagems, have been employed. But we are still unshaken in our attachment to the land of our birth; and we do solemnly protest against the exercise of oppressive measures to effect our removal."

They had been ordered by the commanding officer of the United States troops to desist from digging for gold. In a letter of reply, they said: "The Cherokees respect the government and its officer; but so firmly convinced are they of their rights and their privileges, that they are still disposed to continue their mining operations, and are perfectly resigned to such fate as the consequence of their honest labor upon their own lands may consign them to, under the laws of the United States."

In October, Gov. Gilmer, of Georgia, in a letter to the president, requested him to withdraw from the Indian territory the United States' troops that had been sent there to enforce the non-intercourse law within the limits of the state, as it was "considered inconsistent with the rights of jurisdiction now exercised by its authorities." Before the letter reached the president, in view of the approach of winter, the troops had been ordered to retire into winter quarters; of which the governor was officially informed.

Having failed in their appeals to the government for protection, the Cherokees took measures to have their case submitted to the supreme court of the United States. In June, 1830, Mr. Wirt addressed a letter to Gov. Gilmer, informing him that he had been professionally consulted by the Cherokees as to their rights under their treaties with the United States, and suggested that a decision might be expedited, by making a case, by consent, before the supreme court. This the governor declined. In his reply, he ascribed the unwillingness of the remaining Cherokees to join those of the tribe who had removed, to an improper interference on the part of their friends, by whom they had been persuaded that the right of self-government could be secured to them by the supreme court. He said: "So long as the Cherokees retained their primitive habits, no disposition was shown by the states under the protection of whose government they resided, to make them subject to their laws. Such policy would have been cruel; because it would have interfered with their habits of life, and the enjoyments peculiar to Indian people." He ascribed the change in their condition to the power of the whites among them; and it was this state of things that had

rendered it obligatory upon Georgia to vindicate her sovereignty by abolishing the Cherokee government. "No one," said he, "knows better than yourself, that the governor would grossly violate his duty, and exceed his authority, by complying with such a suggestion, (that of making up an "agreed case" before the court,) and that both the letter and the spirit of the powers conferred by the constitution upon the supreme court, forbid its adjudging such a case."

George Tassels, an Indian, having committed a homicide in resisting the execution of the laws of Georgia, was tried, convicted of murder, and sentenced to be hanged. Before the day fixed for the execution of the sentence, the state of Georgia, pursuant to a writ of error obtained from the supreme court of the United States dated the 12th of December, was cited to appear in January, and show cause why judgment against Tassels should not be corrected. The governor communicated the fact to the house of representatives, and the subject was referred to a committee, who reported resolutions, declaring the interference of the chief-justice in the administration of the criminal laws of Georgia to be a flagrant violation of her rights; enjoining all state officers to disregard all such mandates of the court; requiring the governor, by all force and means at his command, to resist and repel all invasions upon the administration of the laws; refusing to become a party to the case; and authorizing the governor to order the sheriff to secure the execution of Tassels, which was accordingly done.

In March following, (1831,) a motion was made in the supreme court in the name of the Cherokee nation, praying for a process of subpoena against the state of Georgia, and for an injunction to restrain the state from executing her laws within the Cherokee territory, on the ground that the execution of such laws in the Indian territory was repugnant to the constitution, laws and treaties of the United States. The question was most ably argued by John Sergeant and William Wirt, in favor of the motion. The opinion of the court was adverse to the application; the court disclaiming jurisdiction in the case, on the ground that the Cherokee nation was not a *foreign* nation in the sense of the constitution.

The court admitted the character of the Cherokees to be that of a state, a distinct political society, capable of managing its own affairs, and governing itself, of maintaining the relations of peace and war; of being responsible for any violation of their engagements; or for any aggressions committed on citizens of the United States. They had been uniformly so recognized by our treaties with them and by our laws. The counsel had shown that they were not a state of the union, and had insisted that they were individually aliens, not owing allegiance to the United States; and that an aggregate of aliens must be a foreign state

But the court, though it conceded to the Indian tribes the attributes of a foreign nation, decided that they were not so recognized by the constitution; but were to be considered as domestic, *dependent* nations, in a state of pupillage to the general government, and holding their territory by right of occupancy. [A decision of the court as to the rights of the Indians was subsequently given in a case of acknowledged jurisdiction, which will be found in a succeeding chapter.]

CHAPTER XLII.

WEST INDIA TRADE.—MR. M'LANE'S ARRANGEMENT.—JOHN RANDOLPH'S MISSION TO RUSSIA.

THE history, in a preceding chapter, of our protracted difficulties with Great Britain in regulating the colonial trade, was brought down to the year 1828, and left us in possession of the trade with her West India colonies through the Danish, Swedish, and other neutral islands. [See West India Trade.] It has been observed, that the loss of the direct trade with the British islands, to the great injury of the people of the United States, was charged upon the preceding administration; that they had neglected to accept, as a *privilege*, advantages which they had persisted in claiming as a *right*; and that they might have obtained them by legislation, had they not relied too much on negotiation. It was to be expected, therefore, that the new administration would spare no effort to retrieve what had been lost by their predecessors. In this the public expectation was not disappointed.

Mr. M'Lane, the new minister to England, received special instructions in relation to the conduct of the negotiation on this "vexed question" of British colonial trade. He was directed to represent, that the American people, in effecting a change of administration, had testified their disapproval of the acts of the late administration, and that the claims set up by them which had caused the interruption of the trade in question, would not be urged: that is to say, that what had been injudiciously asked as a right, we were willing to receive as a boon; and that the present administration should not be held responsible for the errors of their predecessors.

In the summer of 1830, an arrangement was effected, similar to that proposed by the act of parliament of July, 1825. Congress, at the last

session, in anticipation of some arrangement, or perhaps with a view of facilitating one, passed an act providing that, whenever the president should have evidence that Great Britain would open the ports of her West India and other American colonial possessions, to the vessels of the United States and their cargoes, on equal terms with her own coming from the United States, and would permit our vessels to export from her colonies to any country except the British dominions, on the same terms as British vessels; then the president was to announce the fact by proclamation; whereupon the ports of the United States were to be opened to British vessels from the colonies on the same terms as our own. And the order in council of the 27th of July, 1825, so abruptly issued on the arrival of Mr. Gallatin, was to be abolished. The proclamation was accordingly issued on the 5th of October, 1830.

It was but natural that there should be great exultation on the part of the administration presses, on the consummation of an arrangement which had, as they said, baffled the diplomacy of our government for forty years. The recovery, "by the honest, high-minded, and straight forward administration of Andrew Jackson," of an unrestricted commerce, temporarily enjoyed under the act of parliament of July, 1825, but "unwittingly and criminally thrown away by the blundering negotiation" of the preceding administration, was every where hailed as a most important and honorable achievement. Whether to mitigate the mortification caused by the triumph of the administration, or as the expression of an honest conviction, the opposition declared not only that the trade had not been lost, but that nothing had been gained by the arrangement. Our products were admitted into the neutral islands, and thence transported to the British islands; and the additional cost of this circuitous transportation, had fallen upon the British consumers. Under the new arrangement, our navigation, which had enjoyed the carrying trade, would be diminished by the competition of the British shipping, for which loss no equivalent would be received.

Great Britain was not tardy in counteracting any advantages which the United States expected from a reciprocal trade. Produce coming into her West India ports directly from the United States, was subjected to exorbitant duties, but was admitted into the Canadian provinces and thence shipped to her West India islands in British vessels, free of duty, to the exclusion of American shipping. Also, the flour manufactured in Canada from American wheat, was considered as having changed its character, and was admitted free into England, as *colonial* produce. The duty, for example, on a barrel of flour from the United States into the British West India colonies, was 6s., or \$1 33; but from the North American colonies, (the Canadas,) no duty was charged. On

1,000 feet of inch thick lumber, \$7; from the British colonies free. And to evade the payment of duty even upon the produce conveyed in British vessels from our ports to the West India colonies, the same was first taken to the Canadian ports, and thence carried, as British produce to the islands without being subject to the duty paid by our vessels.

A British paper remarked on this subject as follows: "The most important point secured by this new arrangement, is the carrying trade. British vessels may now proceed from any part of His Majesty's dominions, direct to the United States; there load a full cargo either for the West Indies direct, or by way of the provinces, as the nature of the cargo may invite, thus completing the whole voyage, a portion of which only American vessels would be eligible to perform." Another said, tauntingly: "Jonathan, after all, will not find the great boon so good a thing as he expected, under the existing restrictions." And another: "We only allow their vessels to bring to our ports the produce and manufactures of the United States: they make their ports free to our commerce in every sense of the word."

The effect of the new arrangement upon our tonnage, appeared from the official statements of the treasury for 1830 and 1831. American tonnage entering the ports of the United States during the year ending September 30th, 1830, from the British West Indies, was 22,428 tons; from the British American colonies, 130,527 tons: total, 152,955. In 1831, from the former, 38,046 tons; from the latter, 92,672: total, 130,718. Decrease of American tonnage, 22,428. British tonnage, entering our ports in 1830, from British West Indies, 182 tons; from British American colonies, 4,002 tons: total, 4,184. In 1831, from the former, 23,760 tons; from the latter, 82,557: total, 106,317. Increase, 102,133.

Essential benefit, however, was derived by the states bordering on the Canadas, from the admission of American produce into the Canadian ports, free, without any adverse effect, except some diminution of the revenues of the Erie canal, caused by the diversion of produce to the Canadian market.

In 1830, John Randolph was appointed minister to Russia, as successor to Mr. Henry Middleton, who had been appointed by Mr. Monroe, in 1820. At the session of 1830-31, the appropriation bill being under consideration, Mr. Stanbery, of Ohio, moved to strike out the appropriation for the salary of the minister to Russia for that year. Mr. R. had been but nine days at St. Petersburg, when he was compelled, by ill health, to leave that rigorous climate; and he was then supposed to be residing in England or France. The mover advocated his motion on the principles which brought Gen. Jackson into office,

and alluded to the clamor during the preceding administration about the profligate expenditure of the public money and constructive journeys. A change of administration had been urged to correct these abuses. Perhaps a more substantial objection was that urged by Mr. Burges—the character and terms of the mission. Mr. Randolph, though possessing talents of a peculiar kind, was not generally supposed to be well fitted for a diplomatic office. His health was known to be insufficient; and he was authorized to leave Russia, if the state of his health should require it.

Mr. Randolph was noted for his eccentricities. His conduct at St. Petersburg was represented to have been such as to excite suspicions of insanity. His singular deportment and strange appearance, on being presented to the emperor and empress, were said to have thrown the latter and her attendants into a fit of laughter. He was said also to have shown his private papers—his correspondence with the president and secretary of state—urging him to accept the appointment. On his departure, he left the affairs of the United States in the charge of John Randolph Clay, his secretary of legation, who was said to be a minor, about 20 years of age.

Mr. Archer opposed the motion of Mr. Stanbery. If it should be adopted, not only would the professed object, the recall of the present minister, be effected; the mission to the Russian court would be entirely interdicted: for, without an appropriation, no minister could be maintained. The debate upon this comparatively unimportant question continued several weeks, no doubt to the injury of other public business, when, as was expected, the motion was lost.

An inquiry into the condition and management of the post-office department was authorized in the senate, and resulted in the discovery of transactions which reflected discredit upon the administration of that department. Mr. Grundy offered a resolution prohibiting the committee from calling, as witnesses, persons removed from office by the department, to testify as to the causes of their removal. This resolution, after considerable debate, and some modification, was adopted.

On the 3d of March, Mr. Clayton, from the select committee on this subject, made a report; from which it appeared certain additional allowances, without warrant of law, had been made to contractors by the department, and erroneously entered on the books as having been made by Abraham Bradley, senior assistant postmaster-general, who acted as postmaster-general for a few days after Mr. M'Lean left the office, and before its duties were assumed by Mr. Barry.

A call had been made at the preceding session for copies of contracts made by the postmaster-general or his predecessor, upon which extra

allowances had been made; but no answer had been received until some time in February of the present session, after the long delay had been complained of as evidence of a design to baffle inquiry into the concerns of the department. It appeared, that, in thirty-six cases, some of them gross violations of law, the allowances were falsely set down as having been made by Mr. Bradley. The documents showed that the name of Mr. Barry had been originally written; but had been "rubbed out," and that of Mr. Bradley inserted. Mr. B., soon after he had been removed from office, had, by letter, informed the president of some of these cases; and as the statements of the letter had been sworn to, the tendency of the falsification of the documents, if undetected, was to convict Mr. B. of swearing falsely. It was thought proper, therefore, that the report should be printed. After some debate, the question on suspending the printing of the report was decided in the affirmative.

An attempt was made at this session, by the ultra friends of "state rights" to repeal or modify the 25th section of the judiciary act, passed in 1789, one of the earliest acts of congress under the constitution. This assault upon that act was supposed to have been suggested by the discussion of the powers of the general and state governments, in which had been claimed for the supreme court the power to decide upon the validity of acts of congress, and by the intended reference of the Cherokee case to that tribunal for decision.

The subject was referred to the judiciary committee, a majority of whom, Messrs. Davis, of South Carolina, Foster, of Georgia, Gordon, of Virginia, and Daniel, of Kentucky, reported a bill for the repeal of the said section, on the ground of its unconstitutionality. The report assumed substantially the same ground as Mr. Hayne and others in 1830. It invoked the authority of the Virginia and Kentucky resolutions; denied the supremacy of the national judiciary; and asserted the entire independence of the state courts. It declared, that "the power, by citation or writ of error, to take a case after judgment, from a state court, and to remove it, for final determination, to the supreme federal court, is a much greater outrage upon the fundamental principles of theoretical and practical liberty, as established here, than the odious writ of *quo warranto*, as it was used in England by a tyrannical king to destroy the rights of corporations."

A counter report was made by the minority of the committee, viz.: Messrs. Buchanan, of Pennsylvania, Ellsworth, of Connecticut, and White, of Louisiana, and was written, probably, by Mr. Buchanan, who was chairman of the judiciary committee. This report urged against the repeal, the necessity of an appeal from state courts to the federal

court, to secure to individuals important rights. Individual states were liable to high excitements and strong prejudices; and judges of state courts would participate in the feelings of the communities around them. The judges of the federal court residing in different states, and remote from each other, were not subject to local prejudices and excitements.

Another reason offered for preserving this section was, to secure a uniform interpretation of the constitution, laws and treaties of the United States. If the courts of each of the states had the power of deciding, in the last resort, upon the constitution and laws, there might be a different construction of them in every state; and rights secured to the citizens of one state, might be denied to the citizens of another state. It was urged, too, and with much force, that the repeal of this section would endanger the union. The chief evil of the confederation, and that which gave birth to the constitution, was, that the general government could not act directly upon the people: the constitution was intended to enable the general government to act immediately upon the states, and to carry its own laws into execution. There was a higher authority in this country than that of sovereign states; it was that of the sovereign people of each state: they had, in their state conventions, ratified the constitution of the United States; and the states were bound by it. Other arguments were adduced by the minority, in favor, both of the expediency and constitutionality of this section of the judiciary act, in authorizing appeals from the state courts to the national court.

This attack upon the supreme court, designed to remove a strong barrier to nullification, met with a signal failure. The bill for the repeal was rejected by a vote of 138 to 51. It received but 6 votes from the northern states: Jarvis, of Maine, Chandler and Harvey, of New Hampshire, Angel, Cambreleng and Maxwell, of New York. Delaware and Maryland were unanimous against the repeal. Of the 25 members absent, a majority were said to be opposed to the bill.

Among the earliest business of the session of 1830-31, was the trial of James H. Peck, a judge of the district court of the United States, for the district of Missouri, on an impeachment by the house of representatives at the preceding session; the trial having been adjourned. The senate was organized into a court of impeachment on the 13th of December, 1830. The case was managed, on the part of the house, by Messrs. Buchanan, M'Duffie, Judge Spencer, Storrs, and Wickliffe.

Under an act of congress "enabling the claimants to lands within the limits of the state of Missouri and territory of Arkansas, to institute proceedings to try the validity of their claims," a suit was brought before judge Peck, and decided against the claimants, who appealed from the decree of the judge to the supreme court of the United States. Judge

Peck having caused his opinion and the reasons for the same to be published, the counsel for the claimants, Luke E. Lawless, procured the publication of a review of the judge's opinion, purporting to expose certain errors which it was alleged to contain. At a subsequent term of the court, the judge caused the imprisonment of Lawless for a contempt thereof, for one day, and suspended him from professional practice in that court for eighteen months. The judge was impeached for an alleged abuse of judicial authority, the publication of Lawless not being deemed harsh or disrespectful.

Judge Peck was defended by Mr. Meredith, of Philadelphia, and Mr. Wirt. It was shown that the opinion of the judge had been published at the request of the members of the bar, and of those persons who were interested in the case; and such publications were usual both in England and the United States. The case in question was a select and test cause, and an adverse decision would produce dissatisfaction in all other claimants. The respondent considered the publication a gross and palpable misrepresentation of his opinion. Lawless had an opportunity offered him, on his defense, of clearing himself of intentional disrespect, but had refused to answer the interrogatories of the judge, and reasserted the allegations of his publication. The cause was ably argued by Messrs. M'Duffie, Buchanan, Spencer, Storrs, and Wickliffe, in favor of the impeachment, and by Messrs. Meredith and Wirt against it. The speeches of Mr. Storrs and Mr. Wirt were spoken of as surpassingly eloquent. The judge was acquitted: 21 votes to sustain the impeachment; 24 against. A majority of two-thirds is necessary to a conviction.

The result of this trial, however, led to the passage of a law at the same session, limiting the power of judges, under the authority of the English common law doctrine, in punishing for contempt of court. The act restricted this power to cases of misbehavior in the presence of courts, or so near them as to obstruct the administration of justice; and to the official misbehavior of officers of the courts.

A revision of the tariff having been recommended by the president in his annual message, the committee on manufactures, of which Mr. Mallary was chairman, made a report dissenting from some of the views of the president. The committee contrasted the sentiments of the message with those previously declared by him on this subject. He had said, that "the power to impose duties on imports originally belonged to the states. This authority having entirely passed from the states, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the general government, it must be extinct. Our political system would thus present the anomaly

of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations."

In the message, the president says: "The chief object of duties should be revenue;" but "they may be so adjusted as to encourage manufactures." Also, that "objects of national importance alone ought to be protected;" that "the present tariff taxes some of the comforts of life unnecessarily high; it undertakes to protect interests too local and minute to justify a general exaction; and it also attempts to force some kinds of manufactures for which the country is not ripe;" and he recommends that each particular interest be taken up "singly for deliberation."

These, and several other points in the message, are discussed by the committee. The first they considered as being "in plain collision with the sentiments he had previously maintained." He had admitted the power to "foster" our industry; in regard to which the committee say: "If *revenue* alone is wanted, duties for *that* object should be imposed. If *protection* to domestic industry is required, let duties be imposed to 'foster it.' Why should the *chief* object be revenue? Why protection *secondary*, when the treasury may be full? Then they should be adjusted to secure protection. This should be the *primary* object. The protecting power having once belonged to the states, and having been transferred to the general government, it may be used as the good of the nation demands, for a *primary*, not a *secondary* object."

The general expressions: "objects of national importance;" "some of the comforts of life;" "interests too local;" "some kinds of manufactures for which the country is not ripe," the committee thought, afforded no aid in adjusting the *details* of a protecting tariff. Little difference of opinion existed as to abstract principles; the difficulty consisted in applying theory to practical and useful purpose. In this, individuals differed in opinion. Congress had not been unmindful of these objects, and no material change, it was thought, was demanded.

The committee adverted to some of the most essential "comforts of life," as cotton goods, nails, hats, caps, shoes, boots, cheese, &c., as furnishing evidence, that, in all cases where the material is found at home, and the protecting duty had been adequate, the domestic article had become cheaper. The duty secured the market to the home manufacturer and domestic competition reduced the cost to the lowest possible price, and at the same time improved the quality. The committee also objected decidedly to the suggestion of submitting each interest "singly for deliberation," without reference to a general system. By such a rule, they believed, no protecting system had ever been adopted, and by it none

could stand; and they apprehended, that an attempt to disturb the tariff which had been so recently revised, would "spread alarm among the great interests of the country, shake confidence in the plighted faith of the government, and expose the whole country to the dangers of a most selfish policy which might be adopted by foreign nations."

CHAPTER XLIII.

CONTROVERSY BETWEEN MR. CALHOUN AND GEN. JACKSON IN RELATION TO OCCURRENCES IN THE SEMINOLE WAR.

IN the winter of 1830-31, Mr. Calhoun, vice-president of the United States, appeared before the public in an address, accompanied by a correspondence between himself and Gen. Jackson, in relation to the course of Mr. Calhoun in the deliberations of the cabinet of Mr. Monroe, on the occurrences of the Seminole war. His object was to expose an attempt to effect his "political destruction" by creating a disaffection between Gen. Jackson and himself. The "secret movement" against him commenced, as he conceived, with certain letters of Mr. Crawford to different persons, representing that Mr. Calhoun had been opposed to the conduct of Gen. Jackson in the Florida war, and in cabinet council had proposed "that Gen. Jackson should be punished in some form, or reprimanded in some form," he was not positively certain which.

Mr. Crawford, in a letter to Mr. Forsyth, April 30, 1830, gives as an apology for disclosing what passed in this cabinet meeting, that an extract of a certain letter had been published in a Nashville paper, alleging that he (Mr. C.) "had proposed to arrest Gen. Jackson, but that he was triumphantly defended by Mr. Calhoun and Mr. Adams;" and Mr. Crawford expresses the belief, that the letter had been written by Mr. Calhoun, or by his directions. Mr. Crawford farther says: "Mr. Calhoun made some allusion to a letter the general had written to the president, who had forgotten that he had received such a letter; but said, if he had, he could find it; and went directly to his cabinet and brought the letter out. In it Gen. Jackson approved of the determination of the government to break up Amelia island and Galveztown, and gave it also as his opinion that the Floridas ought to be taken by the United States. He added, that it might be a delicate matter for the executive to decide; but if the president approved of it, he had only

to give a hint to some confidential member of congress, say Johnny Ray, and he would do it, and take the responsibility upon himself. I asked the president if the letter had been answered. He replied, no; for he had no recollection of having received it. I then said that I had no doubt that Gen. Jackson, in taking Pensacola, believed he was doing what the executive wished. After that letter was produced, unanswered, I should have opposed the infliction of punishment upon the general, who had considered the silence of the president as a tacit consent. Yet it was after this letter was produced and read, that Mr. Calhoun made his proposition to the cabinet for punishing the general."

The above having been placed in the hands of Gen. Jackson, he immediately wrote to Mr. Calhoun, (May 13, 1830,) expressing his surprise at the course taken by him in the cabinet, so contrary to what had been indicated in his correspondence at that time, and referred to the letter of Mr. Calhoun, as secretary of war, to Gov. Bibb, of Alabama, of the 13th of May, 1818, saying: "Gen. Jackson is vested with full power to conduct the war in the manner he may judge best;" and also to his letters to him (Gen. J.,) in one of which he had said: "I have the honor to acknowledge the receipt of your letter of the 20th ultimo, and to acquaint you with the entire approbation of the president of all the measures you have adopted to terminate the rupture with the Indians." The general desired to know whether he (Mr. C.) had made the proposition imputed to him by Mr. Crawford.

As will readily be seen, there was involved in this controversy a question of veracity between Crawford and Calhoun. The former had represented the latter as having attempted to get the general punished. Gen. Jackson, on the strength of this statement of Mr. Crawford, accuses Mr. Calhoun of duplicity. Mr. Calhoun denies the truth of the charge, and in his reply to the letter of Gen. Jackson, endeavors to prove that neither himself nor Mr. Monroe considered him authorized to occupy the Spanish posts. He says: "To save you the trouble of turning to the file of your correspondence, I have inclosed extracts from the letters, which clearly prove, that the decision of the cabinet on the point that your orders did not authorize the occupation of St. Marks and Pensacola, was early and fully made known to you; and that I, in particular, concurred in the decision.

"Mr. Monroe's letter of the 19th of July, 1818, the first of the series, and written immediately after the decision of the cabinet, enters fully into the views taken by the executive of the whole subject. In your reply of the 19th of August, 1818, you object to the construction which the administration had placed on your orders, and you assign your reasons at large, why you conceived that the orders under which you acted author

ized your operations in Florida. Mr. Monroe replied on the 20th of October, 1818; and after expressing his regret that you had placed a construction upon your orders different from what was intended, he invited you to open a correspondence with me, that your conception of the meaning of the orders, and that of the administration, might be placed, with the reasons on both sides, on the files of the war department. Your letter of the 15th of November, in answer, agrees to the correspondence as proposed, but declines commencing it, to which Mr. Monroe replied by a letter of the 21st of December, stating his reasons for suggesting the correspondence, and why he thought that it ought to commence with you." Mr. Calhoun also refers to the message of the president to the house of representatives of the 25th of March, 1818, and his annual message in November following, as containing evidence of his having considered the occupation of the posts unauthorized. And he proceeds in attempting to show, that in his letter to Gov. Bibb, saying that the general had power "to conduct the war in the manner he might judge best," he could not have meant that he had authority to occupy the Spanish posts. Nor could certain other letters be justly interpreted into such authority.

Speaking of the letter of Gen. Jackson to Mr. Monroe, mentioned by Mr. Crawford in his letter to Mr. Forsyth, Mr. Calhoun said it was not received till several weeks after the orders to the general had been issued, and could not, therefore, have had any influence in drawing them up; nor could the general have supposed so, as he had not referred to it as forming a part of his justification. Mr. C. adds: "You rested your defense on what I conceive to be much more elevated ground—on the true construction, as you supposed, of your orders, and the necessity of the measures which you adopted to terminate the war, and not on any supposed secret wish of the executive in opposition to the public orders under which you acted."

The reply of the president to the letter of Mr. Calhoun was brief. He said it had been intimated to him many years ago, that it had been he, (Mr. Calhoun,) and not Mr. Crawford, who had been secretly endeavoring to destroy his reputation; but he had repelled the insinuations upon the ground of his professed friendship, and upon his letters approving *entirely* his conduct in the Seminole campaign. He adds: "When I was presented with a copy of Mr. Crawford's letter, with that frankness which ever has, and I hope ever will characterize my conduct, I considered it due to you, and the friendly relations which had always existed between us, to lay it forthwith before you, and ask if the statements in that letter could be true. I repeat, I had a right to believe that you were my sincere friend, and until now, never expected to have occasion to say to you, in the language of Cæsar, *Et tu Brute*. The evidence which has brought

me to this conclusion, is abundantly contained in your letter now before me. In your and Mr. Crawford's dispute, I have no interest whatever; but it may become necessary for me hereafter, when I shall have more leisure, and the documents at hand, to place the subject in its proper light; to notice the historical facts and references in your communication, which will give a very different view of this subject."

It is perhaps necessary here to observe, that, although Mr. Calhoun does not in express terms so declare, he considered his meditated "political destruction" as having originated with Mr. Van Buren and his political friends with a view to his own advancement; and he regarded Mr. Crawford as one of the principal agents in the conspiracy, who commenced writing his secret letters as early as 1827. That Mr. Van Buren was suspected of having been the instigator of the "movement," was well known at the time; and appears farther from a letter of Mr. Lumpkin, of Georgia, to Mr. Calhoun, in which he uses epithets, by which Mr. Van Buren, as a politician, was very generally designated by his opponents. He considered it the duty of "every patriotic citizen to frown indignantly upon all *intriguers, managers, political jugglers*, and selfish politicians, of every description, who are disposed to divide and conquer."

Mr. Calhoun published also the private correspondence, in 1821, between president Monroe and Gen. Jackson on the Seminole affair, to show that Mr. Monroe considered the occupation of the Spanish posts a violation of orders. Says Mr. Monroe: "In calling you into active service against the Seminoles, and communicating to you the orders which had been given just before to Gen. Gaines, the views and intentions of the government were fully disclosed in respect to the operations in Florida. In transcending the limit prescribed by those orders, you acted on your own responsibility, on facts and circumstances which were unknown to the government when the orders were given, many of which, indeed, occurred afterwards, and which you thought imposed on you the measure, as an act of patriotism, essential to the honor and interests of your country."

Mr. Monroe considered himself justified by the law of nations in ordering troops into Florida in pursuit of the enemy, who eluded pursuit by entering into that country. This was not an act of hostility to Spain; and it was the less so, because her government was bound to restrain the Indians from committing hostilities against the United States. "But an order by the government," says Mr. Monroe, "to attack a Spanish post, would assume another character. It would authorize war, to which, by the principles of our constitution, the executive is incompetent." And to avoid giving cause of war, by making the government responsible for the act, he had ordered the surrender of the posts.

Gen. Jackson, in reply, justifies himself on the ground, "that an order, generally, to perform a certain service, or effect a certain object, without any specification of the means to be adopted, or limits to govern the executive officer, leaves an *entire discretion* with the officer, as to the choice and application of the means, but preserves the responsibility for his acts on the authority from which the order emanated."

In answer to this, Mr. Monroe says: "I am sorry to find that you understood your instructions relative to operations in Florida differently from what we intended. I was satisfied, however, that you had good reasons for your conduct, and have acted in all things on that principle. By supposing that you understood them as we did, I concluded that you proceeded on your own responsibility alone, in which, knowing the purity of your motives, I have done all that I could to justify the measure." He then advises the general to write a letter to the department, stating his views of the instructions under which he had acted; and says: "This will be answered, so as to explain ours, in a friendly manner, by Mr. Calhoun, who has very just and liberal sentiments on the subject. This will be necessary in the case of a call for papers by congress. Thus we shall all stand on the ground of honor, each doing justice to the other, which is the ground on which we wish to place each other."

The correspondence in Mr. Calhoun's pamphlet is so exceedingly voluminous that we cannot refer to a tithe of the letters it contains. The object of its publication seems to be, not only to exculpate himself from the charge of duplicity preferred against him by Gen. Jackson, but to convict Mr. Crawford either of the same, or of direct falsehood, or of both. To this effect, he introduces several letters. The first in order is from Mr. McDuffie, dated May 14, 1830; who says, that he heard Mr. Crawford (in 1818) state, in conversation with Eldred Simpkins, that himself and Mr. Calhoun were the only members of the cabinet in favor of an inquiry into the conduct of Gen. Jackson. He also disapproved the course of the general in forestalling public opinion, in prematurely bringing the grounds of his defense before the country, and thus anticipating the administration. And in reference to an article in the National Intelligencer which laid down a principle of the law of nations going to show, that a neutral territory could only be invaded in fresh pursuit of an enemy, Mr. Crawford said: "Mr. Adams denies all that;" and he represented Mr. Adams as going farther in justifying Gen. Jackson than even Mr. Monroe, stating "that the latter was induced to pass over the conduct of Gen. Jackson without public censure, not from a belief that he had not violated his orders, and exceeded his power, but from political considerations connected with our relations with Spain"

Mr. Robert S. Garnett, formerly a member of congress from Virginia, says, in his letter of Jan. 12, 1831, that, in a conversation with Mr. Monroe, in the winter of 1819, the latter declared, that there had been no division in the cabinet, as to the course which should be pursued towards the general. "This," said Mr. Garnett, "excited my astonishment; because, in a conversation with Mr. Crawford, either before the debate commenced, or while it was pending, Mr. Crawford had used this expression to me: 'General Jackson ought to be condemned.' I noted this expression down in a journal I kept, and subsequently repeated it frequently. Mr. C. Beverly told me that he had mentioned it to Gen. Jackson, when he was at his house in Tennessee, and, I think, said that the general expressed much surprise."

Mr. Calhoun also controverts the statement of Mr. Crawford in relation to the private letter alluded to by Mr. Calhoun in the cabinet meeting before mentioned, and gives letters from Mr. Monroe and Mr. Wirt, both of whom express the opinion that the letter was not before the cabinet. The former says he received the letter when sick in bed, and could not read it, and handed it to Mr. Calhoun for perusal, who after reading it, said it would require an answer. Mr. Crawford coming in soon afterwards, Mr. Monroe handed it to him also for perusal; who remarked that it related to the Seminole war. Mr. M. being some time confined by indisposition, the letter was laid aside and forgotten by him, and not read, until after the conclusion of the war; and he then did it on an intimation from Mr. Calhoun that it required his attention.

Mr. Wirt said, (May 28, 1830,) the letter from Gen. Jackson to Mr. Monroe, was new to him. He thought if such a letter had been exhibited at the meeting, he could not have forgotten it. Nor had he any recollection that *punishment* had been proposed by any one, unless an *inquiry* into the official conduct of the general could be regarded as punishment. And he thought the singular fact of the general's only asking for a positive hint of the president's approbation, through "some confidential member of congress, say Johnny Ray," would have tended to fix the occurrence in his memory.

Mr. James A. Hamilton, of New York, in a statement published in the New York Evening Post, Feb. 22, 1831, says, that, during the winter of 1827 and '28, he accompanied Gen. Jackson and suit from Nashville to New Orleans; and much having been said in relation to the charges against Gen. Jackson which had been renewed, and particularly as to the unfriendly course Mr. Crawford was supposed to have taken towards the general in relation to the Seminole war, he, (Mr. Hamilton,) returning through Georgia to New York, purposed calling on Mr. Crawford, and ascertaining what had occurred in Mr. Monroe's

cabinet deliberations. But Mr. Crawford's residence being so far out of the way, he did not visit him. He, however, wrote to Mr. Forsyth, and requested him when he should meet Mr. Crawford, to show him his letter, and communicate the result to him at New York. Mr. Hamilton says farther, that, on his arrival at Washington, in an interview with Mr. Calhoun on the subject, he asked him, (Mr. C.), "whether at any meeting of Mr. Monroe's cabinet, the propriety of arresting Gen. Jackson, for any thing done by him during the Seminole war, had been at any time discussed." To which Mr. Calhoun replied: "Never: such a measure was not thought of, much less discussed. The only point before the cabinet was the answer that was to be given to the Spanish government."

Connected with the statement of Mr. Hamilton, is a letter from Mr. Forsyth, dated in February, 1828, in answer to that of the former written from Savannah on his way to New York, which Mr. F. had, agreeably to his request, shown to Mr. Crawford, who had authorized him to say, that, at the meeting of Mr. Monroe's cabinet, Mr. Calhoun had "urged upon the president the propriety and necessity of arresting and trying Gen. Jackson. Mr. Monroe was very much annoyed by it; expressed a belief that such a step would not meet the public approbation; that Gen. Jackson had performed too much public service to be created as a younger or subaltern officer might be, without shocking public opinion. Mr. Adams spoke with great violence against the proposed arrest, and justified the general throughout, vehemently urging the president to make the cause of the general that of the administration. Mr. Crawford suggested that there was no necessity for deciding upon the course to be pursued towards the general, as the question for which the cabinet was convened, did not require it; they were called to determine how Spain was to be treated in relation to the Florida affair.

* * * Mr. Calhoun had previously communicated to Mr. Crawford his intention to present the question to Mr. Monroe; an intention Mr. Crawford approved, although not believing, as he stated to Mr. Calhoun, that Gen. Jackson would be either arrested or censured by the president."

Drawn out by the letter of Mr. Forsyth to Mr. Hamilton, Mr. Calhoun addresses the editor of the United States Telegraph, requesting the publication of a statement, as supplemental to his correspondence with Gen. Jackson. In reference to the remark attributed to him by Mr. Hamilton, that "the only point before the cabinet was the answer to be given to the Spanish government," he says: "I neither did nor could use the expression 'only,' as it would have been both inconsistent with facts and absurd, as the publications on the Seminole affair clearly indicate that other points were considered by the cabinet. If the statement

be an error on the part of Mr. Hamilton, it probably originated in my using the words 'main point or real point,' or some other expression of similar import."

The statement concludes thus: "The argument of Mr. Crawford in support of his statement of the proceedings of the cabinet, rested almost exclusively on the statement of Mr. Crowninshield and Mr. Adams. A subsequent acknowledgment of the former that he was not present, . . . and, consequently, that his statement to Mr. Crawford is unfounded, and the fact disclosed by the letter of Mr. Adams to me, published with the correspondence, that Mr. Crawford has given in his letter a garbled extract of Mr. Adams' statement to him, omitting the material point, removed the foundation of his argument; and with it, the superstructure which he raised, fell to the ground. * * * Unpleasant as I find my situation, I experience one consolation, without which it would be intolerable. I have been placed in it by no fault of my own. Little did I suspect, more than twelve years ago, when *daring* to construe orders which I myself had drawn, and to which I could give no other construction than what I did, consistently with the constitution, acting as I was, under the obligation of an oath to abstain from the infraction of that sacred instrument; and in *venturing to suggest* the course which I honestly supposed ought to be adopted on their infraction, I should be exposed, at this late day, to so much difficulty and danger. Yet this is my only offense."

Suspicion having been cast upon Mr. Van Buren as having instigated the attack upon the vice-president, that gentleman transmitted, (Feb. 25, 1831,) to the editor of the United States Telegraph, for publication, a note, disclaiming all agency in the affair, and pronouncing every assertion or insinuation designed to impute to him any participation in attempts supposed to have been made in 1827 and 1828, to prejudice the vice-president in the good opinion of Gen. Jackson, or at any time, to be alike unfounded and unjust.

The intimation of Gen. Jackson in his letter to Mr. Calhoun, that, at some future day, "when he had more leisure, and the documents at hand," he might "place the subject in its proper light," was never carried into effect—so far, at least, as regards the *publication* of any defense. We are informed, however, by Mr. Benton, in his "Thirty Years' View," recently published, that a reply was soon after drawn up, giving a full exposition of the affair. This "Exposition" it appears, was intended for immediate publication; but was delayed, as Mr. Benton says, from a feeling of repugnance to the exhibition of a chief magistrate as a newspaper writer; until after the expiration of his office, and afterwards until his death. Being placed into the hands of Mr. Benton

it has at length found its way before the public—at least that part of it which relates more particularly to the matter in controversy.

Gen. Jackson refers to the orders given, from time to time, to Gen. Gaines and himself, the most material of which have been given in our account of the Seminole campaign, in a preceding chapter. Mr. Calhoun's understanding of these orders was to be inferred from his letter to Gov. Bibb, in May, 1818, in which he says: "Gen. Jackson is vested with full power to conduct the war as he may think best." Having received copies of the orders to Gen. Gaines to take possession of Amelia island, and to enter Florida, but halt and report to the department, in case the Indians should shelter themselves under a Spanish fort, he addressed to Mr. Monroe the letter to which reference has been made in the 'correspondence.' We copy it entire:

"NASHVILLE, 6th Jan., 1818.

"*Sir* :—A few days since, I received a letter from the secretary of war, of the 17th ult., with inclosures. Your order of the 19th ult., through him to Brevet Major-General Gaines, to enter the territory of Spain, and chastise the ruthless savages who have been depredating upon the property and lives of our citizens, will meet not only the approbation of your country, but the approbation of Heaven. Will you, however, permit me to suggest the catastrophe that might arise by Gen. Gaines' compliance with the last clause of your order? Suppose the case that the Indians are beaten: they take refuge either in Pensacola or St. Augustine, which open their gates to them: to profit by his victory, Gen. Gaines pursues the fugitives, and has to halt before the garrison until he can communicate with his government. In the mean time the militia grow restless, and he is left to defend himself by the regulars. The enemy, with the aid of their Spanish friends, and Woodbine's British partisans, or, if you please, with Aurey's force, attacks him. What may not be the result? Defeat and massacre. Permit me to remark, that the arms of the United States must be carried to any point within the limits of East Florida, where an enemy is admitted and protected, or disgrace attends.

"The executive government have ordered, and, as I conceive, very properly, Amelia island to be taken possession of. This order ought to be carried into execution at all hazards, and simultaneously the whole of East Florida seized, and held as an indemnity for the outrages of Spain upon the property of our citizens. This done, it puts all opposition down, secures our citizens a complete indemnity, and saves us from a war with Great Britain, or some of the continental powers combined with Spain. This can be done without implicating the government

Let it be signified to me through any channel, (say Mr. J. Rhea,) *that he possession of the Floridas would be desirable to the United States, and in sixty days it will be accomplished.*

"The order being given for the possession of Amelia island, it ought to be executed, or our enemies, internal and external, will use it to the disadvantage of the government. If our troops enter the territory of Spain, in pursuit of our Indian enemy, all opposition that they meet with must be put down, or we will be involved in danger and disgrace.

"I have the honor, &c.

"ANDREW JACKSON.

"JAMES MONROE, President U. S."

The account of the reception of this letter has been given; but Mr. Calhoun's "correspondence" contains no information of an answer, other than that Mr. Calhoun, after having perused the letter, said to Mr. Monroe, that it was a confidential one, which he (Mr. M.) must answer. Gen. Jackson in his "Exposition," says: "In accordance with the advice of Mr. Calhoun, and availing himself of the suggestion contained in the letter, Mr. Monroe sent for Mr. John Rhea, (then a member of congress,) showed him the confidential letter, and requested him to answer it. In conformity with this request, Mr. Rhea did answer the letter, and informed Gen. Jackson that the president had shown him the confidential letter, and requested him to state that he approved of its suggestions. This answer was received by the general on the second night he remained at Big Creek, which is four miles in advance of Hartford, Georgia, and before his arrival at Fort Scott, to take command of the troops in that quarter. * * * By the secret act of congress, the president was authorized, under circumstances then existing, to seize and occupy all Florida. Orders had been given which were sufficiently general in their terms to cover that object. The confidential correspondence and general understanding, made them, so far as regarded the parties, as effectually orders to take and occupy the province of Florida, as if that object had been declared on their face."

The "Exposition" quotes from several letters subsequently written to him by Mr. Calhoun, expressions of approval of the measures adopted by him to terminate the war; and adds: "On the 25th of March, 1818, I informed Mr. Calhoun that I intended to occupy St. Marks, and on the 8th of April, I informed him that it was done. Not a whisper of disapprobation or of doubt reached me from the government. On the 5th of May, I wrote to Mr. Calhoun that I was about to move upon Pensacola, with a view of occupying that place. Again, no reply was ever given disapproving or discountenancing this movement. On the

2d of June, I informed Mr. Calhoun that I had on the 24th of May entered Pensacola, and the 28th had received the surrender of the Barancas. Again, no reply was given to this letter expressing any disapproval of these acts. In fine, from the receipt of the president's reply to my confidential letter of the 6th of January, 1818, through Mr. Rhea, until the receipt of the president's private letter, dated 19th July, 1818, I received no instructions or intimations from the government, public or private, that my operations in Florida were other than such as the president and secretary of war expected and approved."

To show, farther, that his course was approved by Mr. Calhoun, the general gives extracts from letters of Col. A. P. Hayne, who had served in this campaign, and had gone to Washington to settle his accounts. He was a friend and fellow-citizen of Mr. Calhoun. Writing to Gen. Jackson on the 24th of September, 1818, he says: "The course the administration has thought proper to adopt, is to me *inexplicable*. They retain St. Marks, and in the same breath give up Pensacola. Who can comprehend this? [This is explained in the instructions to surrender the posts, but of which, probably, Col. Hayne was not then apprised.]

* * * Indeed, sir, I fear that Mr. Monroe has on the present occasion yielded to those about him. I can not believe that it is the result of his honest convictions. Mr. Calhoun certainly thinks with you altogether, although after the decision of the cabinet, he must of course nominally support what has been done." And in another letter, of Jan. 21, 1819, after stating that he had traveled through several states, and that the people of the states and the people of the United States at large approved the conduct of the general in every respect, says: "So does the administration, to wit: Mr. Monroe, *Mr. Calhoun*, and Mr. Adams. Mr. Monroe is your friend. He has identified you with himself. After the most mature reflection and deliberation upon all of your operations, he has covered your conduct. But I am candid to confess, that he did not adopt this line of conduct (in my mind) as soon as he ought to have done. Mr. Adams has done honor to his country and himself."

Gen. Jackson then gives the statements of several gentlemen, who had told him in 1823, '24, and '25, that he had blamed Mr. Crawford wrongfully, and that Mr. Calhoun was the instigator of the attacks made upon him. Many other facts are given by the general to substantiate his charge of duplicity against Mr. Calhoun; but we have, perhaps, already occupied too much space with details of this controversy—more, certainly, than we should have done, but for the additional light which this correspondence throws upon the transactions of the Florida war. Upon this subject we take occasion to remark, that,

whether Gen. Jackson did or did not strictly and literally conform to the orders of the government, an unprejudiced mind can scarcely resist the conclusion, after a careful examination of the question, that Gen. Jackson *believed* his proceedings fully authorized by his instructions from the government.

With respect to the main question, a correct opinion is not easily formed. The statements and testimony of the parties are so directly contradictory as to be irreconcilable with the honesty and veracity of all concerned in this affair; and yet, after the lapse of twenty-five years, when the public judgment is far less influenced by personal predilections, it would perhaps be as unsafe to fix the guilt upon any particular individual as it was at the time of the controversy. The integrity so generally conceded to Mr. Calhoun during a long public career, as well as the correctness of his private life, has been considered by his friends as sufficient to shield him even from a suspicion of falsehood. And yet, whatever may be the facts of the case, it will scarcely be alleged that the "correspondence," on the whole, is sufficient to sustain his charges against Gen. Jackson and Mr. Van Buren.

CHAPTER XLIV.

DISSOLUTION OF GEN. JACKSON'S CABINET.—MR. VAN BUREN'S REJECTION AS MINISTER TO ENGLAND.—CASE OF THE CHEROKEES.

SCARCELY had the last of the "Calhoun correspondence" been given to the public, when an event occurred which served to increase and protract the excitement which the controversy had produced. It was the dissolution of Gen. Jackson's cabinet—the consequence, as was alleged, of the rupture between the president and vice-president. Other occurrences, however, seem to have had a large share in producing the cabinet explosion.

Although the members of the cabinet were on friendly terms with each other, they differed in their preferences as to the successor of Gen. Jackson. The secretaries of the treasury and of the navy were the political friends of Mr. Calhoun. The secretary of war and the postmaster-general favored Mr. Van Buren, secretary of state, the competitor of Mr. Calhoun for the succession. The vice-president, who had been the early supporter of Gen. Jackson had possessed a larger share of his

confidence than the secretary of state, who had more recently come over to his support. The latter, however, had at this time acquired a controlling influence over the president, and had secured his preference for the succession.

On the 7th of April, 1831, Mr. Eaton, the secretary of war, tendered his resignation to the president, assigning as the reason, that he had entered the cabinet contrary to his own wishes, intending at "the first favorable moment, after the administration should be in successful operation, to retire." This resignation was followed by that of Mr. Van Buren, on the 11th, who alleged, as the cause, the premature agitation of the question of Gen. Jackson's successor, which it had been his anxious wish and zealous endeavor to prevent. Continuing a member of the cabinet while occupying the relation to the country which he then did, (that of a candidate for the presidency,) might have an injurious effect upon the conduct of public affairs; and he therefore felt it his duty to resign.

Having been informed of the president's purpose to reorganize his cabinet, the secretaries of the treasury and of the navy communicated their resignations on the 19th of April; that of the attorney-general was delayed until the 15th of June. The letters of acceptance of the resignations of the retiring cabinet officers, bore full testimony to their integrity and fidelity in the discharge of their official duties. In these published resignations and the acceptance of them, there were no indications of any personal differences between any of these officers and the president.

The new cabinet was composed of Edward Livingston, of Louisiana, secretary of state; Louis M'Lane, of Delaware, (recalled from London for that purpose,) secretary of the treasury; Lewis Cass, of Ohio, secretary of war; Levi Woodbury, secretary of the navy; Roger B. Taney, of Maryland, attorney-general; and William T. Barry, of Kentucky, was continued postmaster-general, until 1835, when, having been appointed minister to Spain, he was succeeded by Amos Kendall, fourth auditor of the treasury. Mr. Van Buren was appointed minister to England in the place of Mr. M'Lane. Mr. Eaton was made governor of Florida, and, in 1836, was appointed minister to Spain in the place of Mr. Barry, deceased.

There had been much speculation as to the causes of the dissolution of the cabinet; and from certain remarks of Mr. Branch in a letter of May 3, 1831, to a friend in North Carolina, some interesting development was anticipated. Mr. B. says: "The people have a right to know the whole truth; from whence the alleged discord originated; by whom and for what purpose it had been fostered; and in what respect and

wherefore it has been connected with the public administration of the affairs of the nation." He had gone as far as a man of honor could go, to promote harmony in the cabinet; but he had been expected to go still farther, and not having done so, it had been held good cause for his dismissal.

The public anxiety was soon relieved. The United States Telegraph, which had become the organ of Mr. Calhoun and his friends, anticipated forthcoming disclosures by the following among other significant questions: "Will the Globe deny that Mr. Ingham, Gov. Branch, and Mr. Berrien were dismissed because they refused to compel their families to associate with that of Major Eaton?" There had been unfavorable reports in circulation respecting Mrs. Eaton, who, though she may have been as chaste as the wife of Cæsar, was unfortunately not, like her, above suspicion. As these reports had seriously affected her standing in society at Washington, the three gentlemen above named had interdicted social intercourse between their families and Mr. Eaton's. Mr. Eaton and his wife being favorites of the president, this regulation of the two secretaries and the attorney-general excited his resentment; and Col. Johnson, a member of congress, it was alleged, had previously waited on them, and informed them that it was the president's determination to remove them unless they conformed to his wishes in this matter.

A few days before Mr. Ingham left Washington for his residence in Pennsylvania, he received a letter from Mr. Eaton, saying that the Telegraph contained the remark, that "the families of the secretaries of the treasury and of the navy and of the attorney-general refused to associate with her," (Mrs. Eaton;) and as that paper was friendly to Mr. Ingham, he desired to know whether he (Mr. I.) sanctioned or would disavow this publication. Mr. Ingham, in a brief reply, considers the demand too absurd to merit an answer; and concludes by saying: "I take the occasion to say, that you must be not a little deranged to imagine, that any blustering of yours could induce me to disavow what all the inhabitants of this city know, and perhaps half the people of the United States believe to be true." The answer charges Mr. Ingham with having added insult to injury, and demands "*satisfaction* for the wrong." In his reply Mr. I. says: "I perfectly understand the part you are made to play in the farce you are made to act before the American people. I am not to be intimidated by threats, or provoked by abuse, to any act inconsistent with the pity and contempt which your condition and conduct inspire." Mr. Eaton closes the correspondence—calls Mr. I. a "great coward"—a "contemptible fellow"—and says: "Nothing more will be received short of an acceptance of my demand of Satur-

day, and nothing more be said to me until face to face we meet. It is not my nature to brook your insults, nor will they be submitted to."

The threats uttered in this letter, with certain movements by Mr. Eaton and his friends, excited apprehensions in the mind of Mr. I. who, the next day, (June 21), addressed to the president a letter expressing the belief, that certain "officers of the government supposed to be in the special confidence of the president, had attempted to way-lay him, (Mr. Ingham,) for the purpose of assassination." The officers suspected of this design severally denied, in letters to the president, all knowledge of any such purpose as that with which they had been charged. These letters were forwarded by the president to Mr. Ingham, who, in reply, mentioned facts and circumstances upon which his apprehensions were founded, and challenged a legal investigation of the affair. The president directed an answer by N. P. Trist, informing Mr. Ingham that he does not consider the facts stated by him sufficient to sustain his charge; but assures him protection, if he will come to the seat of government, and prosecute the supposed offenders in the courts of the district.

But to return to the main question. The Globe editor, in his paper of the 19th of July, 1831, said he had received a letter from Col. Johnson, in which he says: "Gen. Jackson never authorized me to require social intercourse, &c. &c. He always disclaimed it. I told the parties so." Here, then, was a question of veracity to be settled between the parties. And in a letter to Mr. Berrien the next day, Mr. Blair, of the Globe, says it was in consequence of a supposed combination "to disgrace Major Eaton and coerce his dismissal from the cabinet," that he had taken the attitude he had assumed in relation to the circumstances which affected the harmony of his cabinet; and that he (Blair) had before him the identical paper which the president had read to him (Berrien) and the two secretaries, Branch and Ingham, and in which he expressly says: "I do not claim the right to interfere, in any manner, in the domestic relations or personal intercourse of any member of my cabinet; nor have I in any manner attempted it."

Mr. Berrien, after a farther interchange of letters with Mr. Blair, addressed "the public" through the National Intelligencer. He disclaimed having had any part in an attempt to coerce Mr. Eaton to retire from the cabinet; and he endeavored to show that it was not in reference to this that Col. Johnson called on him. It was shortly after he had given an evening party, to which Mrs. Eaton had not been invited. He was surprised at the message of Col. Johnson. He says: "I could make no mistake as to its character, for there was a repeated reference to the large parties which had been then recently given by

Messrs. Branch and Ingham and myself. Such a mistake, if it had been one, would have been instantly corrected from the nature of my reply. If the complaint had been of a combination *to evict Major Eaton from office, and not to exclude his family from society*, the reference to these evening parties would have been idle; and my declaration that I would not permit the president to control the social intercourse of myself and family, would have been instantly met by an explanation, which would have removed the impression from the minds of Messrs. Branch and Ingham and myself. Yet we all parted with Col. Johnson, with a clear conviction that such a proposition had been made; and feeling as we all did, that an indignity had been offered to us, there was, as I believe, no difference of opinion between us as to the course we ought to pursue, if this proposition should be avowed and pressed by the president.

This conversation, Mr. Berrien said, took place on Wednesday evening, January 27. On Friday, his colleagues had their interview with the president, and on Saturday he had his. The president's personal friends having interposed, he had become sensible of the impropriety of his projected course. He referred to the parties that had been given, and said if he had been convinced that there had been a combination to exclude Mrs. Eaton from society, he would have required the resignations of himself and his colleagues. But he had become satisfied that there had been no such combination. Mr. B. says: "He showed me no paper—spoke to me of none—intimated to me no terms which he would hereafter require. By his declaration that he did not intend to press the requisition made through Col. Johnson, I considered the object of the interview to be, to explain to me the motives under which he had acted, and to announce the change of his determination."

Mr. Ingham, who had taken full notes of the conversation with Col. Johnson, corroborated the statement of Mr. Berrien, and gave a still more minute detail of that conversation. Col. J. said the president had hoped that their families would have been willing to invite Mrs. Eaton to their *large* parties, to give the appearance of an ostensible intercourse, adding that he was so much excited that he was like a roaring lion. He had heard that the lady of a foreign minister had joined in the conspiracy against Mrs. Eaton, and that he had sworn that he would send her and her husband home, if he could not put an end to such doings. This was said at an interview between Col. J. and Mr. Ingham alone. In the evening of the same day was the meeting at Mr. Berrien's, at which the conversation related by him took place. They attended a party the same evening at Col. Towson's, where a report was already current that they were to be removed. Col. John

son called on him (Mr. Ingham) the next morning, and said he ought perhaps to have been more frank last evening, and to have told them positively that the president would remove them, unless they agreed that their families should visit Mrs. Eaton, and invite her to their large parties. And the colonel mentioned the names of persons whom the president had designated for the two secretaryships. In the evening he called again, and said the president had drawn up a paper explanatory of what he expected of them; that some of his Tennessee friends had been with him; that his passion had subsided, and he had changed his ground; he only wished that they should assist in putting down the slanders against Mrs. Eaton, whom he believed to be innocent. On the next day they had the interview with the president which has been alluded to by Mr. Berrien. Mr. Ingham had no recollection, nor had he taken any note, of any paper read to them by the president.

The statements of Messrs. Ingham and Berrien are confirmed by Mr. Branch, who, writing to Mr. Berrien, says: "You can very well imagine my surprise, on reading the colonel's letter, from what you yourself experienced. My recollections of the interview will most abundantly corroborate all that you have said." Mr. Branch also positively declares that no paper was read to them by Gen. Jackson at the interview with the president.

Col. Johnson, in letters to Messrs. Berrien and Ingham, in July, 1831, reiterates his former statement, that the president had disclaimed, in the paper before referred to, all intention to regulate the social intercourse of the members of his cabinet; and that he (Col. J.) had, on his own responsibility, made the inquiry whether they could not, at those large and promiscuous parties, invite Maj. Eaton and his family.

We have thus sketched all that was deemed essential to an understanding of this cabinet controversy—more, perhaps, than every one will think the subject deserves. Different readers will regard the affair with different degrees of interest; and its *prominence*, if not its importance, as an item of political history, seemed to claim for it a place in our record. In judging of its comparative influence as a cause of the disruption of the cabinet, it is to be borne in mind, that the difficulties between the parties preceded the Calhoun controversy, although the *explosion* did not occur until some time after the publication of his "correspondence."

Mr. McLane having been appointed secretary of the treasury in president Jackson's new cabinet, in the summer of 1831, Mr. Van Buren was appointed to take his place as minister at London. The appointment was made during the recess of the senate and the nomination was made

to that body at the next session. An excited debate of several days' continuance, and exhibiting a strong personal dislike to Mr. Van Buren, took place on this nomination, which was finally rejected by the casting vote of the vice president. The principal ground of opposition to the nomination, was the character of his instructions to Mr. M'Lane, respecting the West India negotiation.

Mr. Holmes said he was against him because he had humbled us in the eyes of foreign nations. He had surrendered the rights of his country to Great Britain to sustain his party. He had also been appointed to fill a vacancy created in the recess of the senate. This he disapproved, except for the most imperative reasons. It was compelling the senate to approve the appointment, or subject us to the loss of the outfit. Suspicion also rested on the nominee as having contrived, or contributed to bring about, the dissolution of the cabinet.

Mr. Marcy challenged an inquiry into the causes of that event. Mr. Van Buren had denied all agency in the matter, and had challenged the world for proof.

Mr. Chambers resisted the nomination exclusively on the ground of Mr. Van Buren's instructions to Mr. M'Lane, in which he had violated the honor of the nation, and insulted the American people in the person of their government; and had disclosed a total ignorance of the principles and feelings which should adorn the diplomatist. He had instructed our minister to press upon a foreign government the misconduct of one part of the American family in the relations of our government with that foreign power, and the more amiable and kind feelings of another division of it. A most revolting and unheard of experiment was to be made, (other supplications having failed to move the royal sympathy,) how far a condemnation of ourselves would disarm a British throne of its haughty, supercilious disdain of a just and honest demand.

Mr. Smith, of Maryland, said the secretary was not responsible for the instructions: they had been given by order of the president, who was the only responsible person known to the constitution. The secretary was under oath, "well and faithfully to execute the trust committed to him." The senator from Maine (Mr. Holmes) had said, "Mr. M'Lane had been sent to bow and cringe at the feet of the British minister." Mr. M'Lane was not made of such suppliant materials. He had asked only what was right, and what his country required. He had convinced the British ministry that they had departed from the rigid construction of the act of parliament of July, 1825, in the cases of France, Russia and Spain; and that they could not, therefore, in justice, refuse a similar departure, in the demand of equal justice to the United States. The great offense was, that the negotiation had succeeded under the instruc

tions given by Mr. Van Buren, and failed under those of another—a crime never to be forgiven by the opponents of Gen. Jackson.

Mr. Clayton said the minister had been sent with instructions to fawn, and beg as a boon, at the footstool of a foreign power, what we were entitled to as a right; to abandon as untenable “pretensions” that had always been insisted on as a matter of justice; and to consider our government in error for having “too long resisted the rights of Great Britain.” He (Mr. C.) would this day, by his vote, say to England, we would never crouch for favors, and to all our ministers, now and forever, that we would condemn every attempt to carry our family divisions beyond our own household.

Mr. Clay based his opposition on the same ground, and went into an examination of the “pretensions,” as they had been called by Mr. Van Buren, and which our government had been said to have unjustly put forward, and pertinaciously maintained. He was opposed to the nomination also, because the nominee had, as he believed, introduced the odious system of proscription into the general government; the system practiced in the gentleman’s own state by the party of which he was the reputed head. It was a detestable system, drawn from the worst periods of the Roman republic: and if the offices and honors of the American people were to be put up to a scramble to be decided by every presidential election, our government would finally end in a despotism as inexorable as that at Constantinople.

Mr. Marcy replied. It was the habit, he said, of some gentlemen to speak with reproach of the politics of New York. The state was large, and had great and diversified interests. It had men of enterprise and talents who aspired to distinction. It was natural, therefore, that her politics should excite more interest at home, and attract more attention abroad, than those of some other states. It might be that the politicians of the United States were not so fastidious as some gentlemen were, as to disclosing their principles of action. They boldly preached what they practiced. When they were contending for victory, they avowed their intention of enjoying the fruits of it. If they were defeated, they expected to retire from office. If they were successful, they claimed, as a matter of right, the advantages of success. They saw nothing wrong in the rule, that to the victor belong the spoils of the enemy.

Mr. M. also replied to the main objection of gentlemen. The late administration—probably in the hope of getting better terms—had refused those offered by Great Britain, until, finding that better terms, claimed as a right, could not be sustained, they concluded to take those first offered; which were then refused; and the colonial trade was lost. As negotiation had been refused to our government, it was neces-

nary to offer some excuse for attempting it again. The administration had been changed, as was publicly known, from the hands of those who had refused the offered terms, into the hands of those who thought they ought to have been accepted; and he saw nothing wrong in instructing Mr. McLane to use this fact in removing any obstacle to negotiation.

Mr. Brown thought Mr. Van Buren's success in the management of our diplomatic affairs bore honorable testimony to his abilities as a statesman. He had, while secretary of state, accomplished more in less time than any of his predecessors. A comparison of the present administration with that which preceded it, would redound greatly to the credit of the existing administration.

Mr. Clay said it had been alleged, that the cause of the opposition to the nomination was the mortification felt at the success of the administration in recovering the colonial trade, and in its general success in the management of our foreign affairs. He thought time would show that what had been done had placed the colonial trade in a more disadvantageous condition than it was in before. He compared the diplomatic achievements of the two administrations. The successful negotiations credited to the present had been commenced, and were in favorable progress, under the preceding administration, and one of them had proceeded so far as to want little more than the signature of the parties to the treaty. The conclusion of the French treaty under this administration, the world knew, would not have been obtained, but for the revolution of July. He then enumerated the diplomatic acts of the preceding administration. Mr. C. remarked, in relation to the responsibility of a secretary of state, that he was equally responsible with the president by whom the instructions were sanctioned.

Other senators participated in the debate: Messrs. Foot, Webster, Ewing, Poindexter, Miller, Hayne, Frelinghuysen and Moore, in opposition to the appointment; and Messrs. Forsyth and Smith in its favor. The four southern senators, Miller and Hayne, of South Carolina, Poindexter, of Mississippi, and Moore, of Alabama, were friends of Mr. Calhoun; and their opposition appeared to have proceeded from Mr. Van Buren's supposed agency in causing the dissolution of the cabinet, and from their dislike to him as a politician. They had been ardent supporters of the administration of Gen. Jackson.

If party expediency was in any measure consulted in the rejection of Mr. Van Buren, his opponents committed an error. The effect of their hostility was rather to increase than to diminish his popularity.

The case of the Cherokees was rapidly approaching a crisis. An act had been passed by the legislature of Georgia, in December, 1830, annulling the government and laws of the Indians, and enforcing the laws

of the state within the territory. This act also made it a misdemeanor for white men to reside within the limits of the Cherokee nation after the 1st of March, 1831, without license from the governor or his agent, and without having taken an oath to support the constitution and laws of the state. Under this act, the Rev. Mr. Worcester, a missionary, and five others, were arrested soon after the law went into operation. A writ of *habeas corpus* was issued, directed to the Georgia commissioner having them in custody, requiring him to show cause for their capture and detention; who returned upon the writ that the prisoners had been arrested under the act of the state, he having been duly appointed commissioner.

The discharge of the defendants was demanded by their counsel, on the ground that the act under which they had been apprehended, was contrary to the constitution of the United States, and to the constitution of the state of Georgia. The judge gave an elaborate opinion, maintaining the constitutionality of the laws and the legality of the arrest. But as Worcester and one of the others were missionaries, and one of them was a postmaster; as they were there by the consent of the general government for the purpose of civilizing and Christianizing the Indians; and as they were government agents for the disbursement of public moneys for that purpose, he discharged them under the provision of the state law which excepted all agents of the general government from its provisions. The other four persons were bound over to answer for the misdemeanor charged against them.

Mr. Worcester was soon after removed from the office of postmaster at New Echota, with the view, as was supposed, to make way for his arrest. This supposition was soon verified. Letters were addressed, (May 16,) by Gov. Gilmer, to Rev. Messrs. Worcester and Thompson, informing them that the general government did not recognize the missionaries as its agents, and advising them to remove from the territory without delay, or comply with the law of the state by taking the constitutional oath, in order to avoid the punishment imposed by the law for disobedience.

A number of persons were arrested, among whom were Dr. Butler, and Rev. Messrs. Worcester and Thompson, Presbyterian missionaries, and one or more Methodist preachers. Several of them were most cruelly treated by the guard, having been conveyed in chains, and one of them, Dr. Butler, having a chain about his neck, and fastened to the horse on which the soldier rode who conveyed him. Ten of them were indicted, convicted, and sentenced to four years imprisonment. Only Dr. Butler and Mr. Worcester were imprisoned; the others having been pardoned by the governor on their giving assurance that they would not

again violate the laws. Mr. Worcester applied to the supreme court of the United States for relief.

The conviction of the missionaries took place in September, 1831. On the 1st of March, 1832, the case of Worcester against the state of Georgia was decided by the supreme court; and the laws of that state under which possession had been taken of the Cherokee country, and persons had been punished for residing therein, were declared to be contrary to the constitution, treaties, and laws of the United States, and ought to be reversed and annulled. Mr. Worcester was therefore ordered, by a special mandate from this court to the superior court of Georgia, to be discharged.

The opinion of the court was delivered by Chief Justice Marshall. A separate opinion, concurring with that of the court, was delivered by Justice M'Lean. Both opinions were elaborate, and of great length. Justice Baldwin dissented. We give a synopsis of the opinion of the court, as published in the National Intelligencer [Note, page 997.]

The mandate of the supreme court was disregarded, and the missionaries kept in prison, without any hope of liberation before another session of the supreme court, January, 1833, when the court would probably enjoin the marshal of the district of Georgia to summon the *posse comitatus*, and the president of the United States to place the army and navy at the service of the civil authority, if necessary, to carry the decree into effect.

In the mean time, the survey of the Cherokee lands, and the disposal of them by lottery, proceeded. The missionaries, indisposed to protract the controversy, informed the authorities of Georgia that they had ordered the discontinuance of their suit; and the state being no longer threatened with coercion, and the question of the continuance of the confinement of the missionaries being left to the magnanimity of the state, they were discharged, by order of the governor, on the 14th of January, 1833.

The Indians continued to be disturbed in the possession of their lands, and the executive persisted in refusing them protection. An offer was made them by the general government for their lands east of the Mississippi. A council was held in May to consider the subject; but the proposition was declined. The peculiar conduct of the government in this matter did not escape the notice of the Cherokees. Their treaties had been uniformly recognized by the government. Georgia herself had recognized their validity; and the supreme court had so decided. The government still offered to pay them for their lands, which they considered as tantamount to a recognition of their right to them; but in case they refused to treat, allowed Georgia, in the face of solemn treaties, to

grant the lands to her own citizens without compensation to the aboriginal owners.

Various expedients were adopted to effect their removal. Agents were sent among them to enrol all who could be persuaded to emigrate on the conditions proposed by the government; and a new attempt was made to enter into a treaty, to which the Cherokees were indisposed.

The president was anxious to effect a settlement of this unpleasant controversy. This anxiety was supposed to have been increased by the dilemma in which he had placed himself. He had just aided in suppressing an attempt by South Carolina to nullify an act of congress. He had issued the proclamation, in which he had declared the authority of the supreme court to decide questions involving the constitutionality of laws; and he had recommended the passage of a law for the enforcement of the collection of the revenues in that state; while he refused to employ the force at his command to protect the Cherokees in the enjoyment of rights guarantied to them by treaties which this same judicial tribunal had pronounced binding upon the general government. Mr. Calhoun had noticed this predicament of the president in the discussion upon the "force bill," as it was called. He said: "The president had laid it down that the tribunal of the supreme court was, in the last resort, the only arbiter of the difference in the construction of the constitutionality of the laws. On this point there seems to have been a great change in the opinion of the executive within the last twelve months. The president had not held this opinion in reference to the resistance of the state of Georgia. A narrow river only divides the territory of Georgia from that of South Carolina; yet, on the one side, the power of the supreme court, as the arbiter, in the last resort, is to be sustained, while, on the other side, the will of the executive is to be supreme."

The course of the president on the Carolina question, raised for a time the hopes of the Cherokees. Their paper remarked: "The supreme court of the United States have decided the question of our case favorably, and the president in his proclamation to the people of South Carolina having promptly declared the supremacy of the constitution and laws of the United States over state authority, there was every reason to believe that he would ultimately enforce the treaties and intercourse act for our protection."

The protracted Indian difficulties were at length terminated by a treaty concluded with their head men and chiefs, the 29th of December, 1835, by Wm. Carroll and John F. Schermerhorn, on behalf of the United States. The sum stipulated to be paid for their lands, was \$5,000,000; to which a supplementary article adds \$600,000 to defray the expense of removal and to cover all claims for spoliations, and \$100,000 more to the national fund.

On the 18th of May, 1836, when the resolution for the ratification of the treaty came up before the senate for consideration, Mr. Clay moved an amendment, declaring, that the writing purporting to be a treaty had not been made by authority on the part of the Cherokee tribe competent to bind it, and was therefore not a valid treaty; and advising the president to open a new negotiation. The motion of Mr. Clay, however, was unsuccessful; and the treaty was confirmed, 31 to 15.

The Cherokees had for some time been divided into two parties, headed, respectively, by Ross and Ridge. The party adhering to the latter, had consented to the treaty, believing they could never prosper under the laws of Georgia; the former protested against the sale of their lands and their removal to the west.

CHAPTER XLV.

PUBLIC LANDS.—INTERNAL IMPROVEMENTS.—PRESIDENTIAL VETOS.—
TARIFF OF 1832.—APPORTIONMENT UNDER THE FIFTH CENSUS.—
PRESIDENTIAL ELECTION.—RETURN OF THE LAND BILL.

THE 1st session of the 22d congress commenced the 5th of December, 1831, and was protracted to the 16th of July, 1832. This session was distinguished for the number of important subjects which engaged the deliberations of congress, and for the free use of the executive veto.

The subject of the public lands, so prolific of discussion in former years, was again agitated at the present session. Various propositions in relation to the disposal of them were made, none of which received a final and favorable action in both houses. In the senate, the subject was referred to the committee on manufactures, with instructions to inquire into the expediency of reducing the price of public lands, and of ceding them to the states in which they were situated, on reasonable terms. The reference of the question of the *public lands* to the committee on *manufactures*, was thought by some to be intended to embarrass Mr. Clay, as being both chairman of that committee, and a candidate for the presidency. Perhaps, however, this reference, was made from a supposed bearing of the question upon the tariff; the modification of which might in some measure be affected by the amount of revenue thereafter to be derived from the sales of public lands.

Mr. Clay, on the 16th of April, made a report sustaining the former

policy of the government, and against the proposed reduction of the price of the lands, and their cession to the states. He thought, although the revenue was not needed by the government at present, it would be wise to provide against seasons of adversity. As the revenue from duties on imports was sufficient for ordinary purposes, he proposed a distribution of the proceeds of the sales of the public lands among the states, for a limited time, subject to be resumed by the government in the contingency of war. To the five per cent. reserved from these proceeds, ten per cent. was to be added, for making internal improvements in the new states; which was intended to allay the complaints of the people of these states, that the public lands were exempt from taxation until the expiration of five years from the time of sale. The residue of the fund derived from land sales was to be divided among all the states in proportion to their federal population, to be applied to purposes of education, internal improvements, or colonization, as each state should judge most conducive to its interests. The time limited for the distribution of the land proceeds was by the bill fixed at five years.

The report of Mr. Clay was followed, on the 18th of May, by a counter report from the committee on public lands, to whom the bill reported by the committee on manufactures had been referred. This report was made by Mr. King, of Alabama, and differed fundamentally from that of Mr. Clay. A reduction of the price was recommended, because, the public debt being nearly paid, the lands were released from the pledge they were under for that object; because a large proportion of them were refuse lands, having been long in market; because the extinction of the government title to them was essential to the independence and prosperity of the states in which they were situated, and for other reasons.

As the committee considered the public lands a subject of revenue, and as the question of reducing the revenue from this source had been referred to the committee on manufactures, who had reported "a bill farther to amend the acts imposing duties on imports;" they recommended that an amendment be offered to that bill, to reduce the price of fresh lands to one dollar per acre, and the price of lands having been in market five years, to fifty cents per acre; and secondly, that the bill relating to the public lands reported by the committee on manufactures, and referred to this committee, be amended by striking out the whole, except so much as proposes to allow ten per cent. to the new states, and to increase the same to fifteen per cent. making the whole allowance twenty per cent. The amendment proposed by the committee on public lands, after considerable debate, was negatived by a large majority; and the bill reported by Mr. Clay was passed, 26 to 18.

The bill was sent to the house for concurrence, July 3, when its con

sideration was postponed to the first Monday of December next; which was in effect a rejection of the bill.

Internal improvement, another subject of almost incessant agitation, was again discussed at this session. A bill originated in the house, "making appropriations for certain internal improvements for the year 1832," which passed both houses, against a strenuous opposition from the administration members from the southern and eastern states and the state of New York; and which received the approval of the president, notwithstanding his previously expressed objections to a system of internal improvement. The bill contained about fifty objects of appropriation, some of which were considered of less importance than those which had been negatived by the president at a previous session. The sums appropriated by this bill, exceeded, in the aggregate, \$1,200,000.

Another bill, making appropriations for the improvement of harbors and rivers, also originated in the house, passed that body by a vote of 95 to 68. A motion by Mr. Polk to strike out the enacting clause had been previously negatived, 101 to 72. In the senate the bill was ordered to be engrossed by a vote of 25 to 16; and was passed the next day, July 5, by nearly the same vote.

The contradictory action of the president upon former bills for internal improvement and that which he had just approved, rendered the fate of the "harbor bill," as it was termed, somewhat doubtful. Its passage by the senate having been indicated by the vote upon certain amendments, Mr. Miller, of South Carolina, said, he had been informed, that the president had approved a bill for the benefit of internal improvements, containing appropriations for the most limited and local purposes. He hoped he should not again be referred to the vetoes of the Maysville and Rockville roads, as security against this system. Both houses and the president concurred in this power. Mr. Clay "expressed his astonishment that they who held the Maysville and Rockville roads and other objects to be unconstitutional, had, it was announced to-day, supported the harbor bill, which contained objects standing precisely on the same footing. It appeared that, under the present administration, the constitutionality or unconstitutionality of a measure depended only upon circumstances of an accidental character."

This bill, though similar in principle to the other, did not receive the signature of the president. It was received by him the 13th of July, three days before the adjournment of congress; and instead of returning it with his objections, he retained it until congress had adjourned, and thus prevented further action upon it.

A bill was also passed at this session, making appropriations for the

final settlement of the claims of the several states for interest on moneys advanced to the United States during the last war. This bill also, passed the day after the passage of the other, was virtually negatived by its retention until after the adjournment. The passage of three bills, therefore, was arrested by the president at this session.

At the session of 1831-32, a new tariff act was passed. A report was made to the house, on the 8th of February, 1832, by Mr. M'Duffie, chairman of the committee of ways and means, in conformity with the views of the opponents of protection. It adopted a general system of *ad valorem* duties, and proposed a reduction of duties to a standard deemed necessary for the purpose of revenue, after the payment of the public debt. It proposed a gradual reduction, which should leave a uniform duty of only 12 1-2 per cent. on all goods imported into the United States after the 30th of June, 1834. A counter report was made by Messrs. Ingersoll, of Conn., and Gilmore, of Penn. Mr. Verplanck, of New York, of the same committee, dissented from both.

Another report was made to the house, on the 27th of April, by Mr. M'Lane, secretary of the treasury, in compliance with a resolution of the house. The bill accompanying this report proposed to reduce the duty on coarse wool to the mere nominal duty of 5 per cent., and on woollen goods to 20 per cent.; to abolish entirely the minimum system *as to woollens*, except the cheaper qualities; and to reduce the duties generally to an aggregate sum equal to the necessary expenditures of the government. Neither of these two bills seems to have received any action in the house, except a very long speech of Mr. M'Duffie in support of the bill reported by himself.

At a late period of the session, (May 24,) John Quincy Adams, from the committee on manufactures, made a long report, with a bill repealing the act of 1828, and essentially reducing the duties on some important articles, as iron, coarse woollens, &c. As a whole, however, it seems to have been more satisfactory to the friends of protection, than the act of 1828. In South Carolina, it was considered by the "union" party as a concession, while the "state rights" party regarded it as no less objectionable than former acts.

The bill of Mr. M'Lane was intended as a compromise; and was satisfactory to neither of the two great interests chiefly to be affected by a reduction of the revenue. It proposed to reduce the revenue from duties on imports to twelve millions; a reduction of about ten millions. Mr. Adams' report was exclusively his own, no other member of the committee agreeing with him in every particular. The bill of the secretary proposed a reduction equal to the amount now pledged for the payment of the national debt, which was nearly paid. Mr. Adams and a majority

of the committee thought a reduction to the full amount of the annual appropriation which was to cease—ten millions—too great. Others of the committee considered the reduction insufficient. Such modifications had therefore been made in the bill of the secretary as to command for it the support of a majority of the committee, although it was not, in all its details, satisfactory to any one of its members.

The discussion of the bill was a brief one; and, with a few amendments, not materially altering its character, was passed by a vote of 132 to 65. In the senate, it received several amendments, some of which were agreed to by the house. A conference was had; and the committee on the part of the senate, having recommended that they recede from the amendments disagreed to by the house, the same was done. The bill, as amended in the senate, passed that body by a vote of 32 to 16. The votes on receding from the different amendments disagreed to by the house, were various. The votes against it in both houses, were chiefly from members who objected to it on the ground that it did not surrender the *principle* of protection.

A new apportionment of members of the house of representatives under the fifth census was made at this session. A bill was reported in the house of representatives by Mr. Polk, proposing one representative for every 48,000 inhabitants entitled to representation, and declaring the number of representatives in each state under this rule. The ratio finally adopted, was 47,700; and to avoid the constitutional objection made by president Washington to the apportionment bill under the first census, no member was given to any state on a residuary fraction of population. The bill passed the house by a vote of 130 to 58, and was sent to the senate.

In the senate, the bill was referred to a select committee of seven members, Mr. Webster chairman, who proposed to amend the bill by striking out all after the enacting clause, and inserting a substitute, making the ratio 47,000, and giving to each state a representative for that number of inhabitants. This would give to each state the same number of representatives (240) as the original bill. And to states having fractions of 25,000, an additional representative was to be given, increasing the number to 255. Mr. W. undertook to show that his amendment was not liable to the objection of Gen. Washington, which was, that no one number, or division, would yield the number of members expressed in the bill, and that it allotted to eight of the states more than one representative for every 30,000, contrary to an express provision of the constitution.

Mr. Clayton also contended, that the bill of 1792, had been rejected solely because it gave more than one representative for each 30,000 to

several of the states; for, in the bill afterwards signed by Washington fractions were in fact represented.

Opposite ground was taken by Messrs. Marcy, Frelinghuysen, and others, who maintained, that Mr. Webster's bill was liable to the same objection as that rejected in 1792; and the opinion of Mr. Madison was cited by Mr. Marcy, in support of his argument. Mr. Frelinghuysen also brought the proposed amendment to the test of Washington's objections; the first and principal one of which was, "that there was no one proportion or division which, applied to the respective numbers of the states, would yield the number and allotment of representatives proposed by the bill; and the second, not the only substantial difficulty with the president, as some had insisted, but an inference from the former—that "the bill allotted to eight of the states more than one for every 30,000." After the bill had been returned, congress passed a new bill with a ratio of 33,000, and applied that to the population of each state.

Several other senators participated in the discussion. The bill as it came from the house, was finally ordered to a third reading; ayes, 27; noes, 20.

Another presidential election was approaching. Gen. Jackson had been désignated by his friends in all parts of the union, at an early period after the commencement of his administration, as a candidate for reëlection. Hence a national convention was necessary only to nominate a candidate for vice-president. The convention for that purpose was held at Baltimore, in May, 1832; and Mr. Van Buren was nominated. Probably his rejection by the senate, as minister to England, contributed to the unanimity with which the nomination was made; the friends of the president deeming his election necessary as a means of avenging the dishonor cast upon himself by the rejection of Mr. Van Buren.

The opposition had selected Mr. Clay as their candidate. He had been nominated by a convention of national republicans in December, 1831, with John Sergeant, of Pennsylvania, for vice-president. The anti-masons, whose rise and progress as a political party has been described, supported William Wirt for president, and Amos Ellmaker, of Pennsylvania, for vice-president; who had been nominated by a national convention, also held in Baltimore, in September, 1831. The great body of the anti-masons agreed, in their views of national policy, with the "national republicans," the appellation which had been assumed by the opponents of the administration. Mr. Clay, however, being a mason, the anti-masons were unwilling to give him their support.

The nomination of Mr. Wirt had not been anticipated. It had been the purpose of the anti-masons to nominate John M'Lean, of Ohio, in the hope of securing the coöperation of the national republicans in his

support. Aware that his name would be brought before the convention, he addressed to one of its members a letter, requesting that, as Gen. Jackson, Mr. Clay, and Mr. Calhoun, had all been nominated by their friends in public meetings and otherwise, and as he thought it inexpedient to distract still more the public mind, his name might be withdrawn. And as leading masons among the national republicans had expressed a determination not to form a union with the anti-masons, even though Judge M'Lean were nominated, the selection of another person became necessary.

The states represented in the anti-masonic national convention, were Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, and Indiana. John C. Spencer, of New York, was chosen president of the convention. The convention was in session three days; having received, before its adjournment, letters of acceptance from both the candidates.

The letter of Mr. Wirt was one of great length, stating his former connection with the institution of masonry, and his limited knowledge of its character, and of the obligations said to be assumed by those entering the higher degrees. But it had become manifest, from the trials in the case of Morgan, that these oaths were not considered by those who imposed and took them, as mere idle words; but that they were viewed as obligations to be practically enforced. This could not, however, be masonry as understood by Washington. The suspicion would be paricide. Nor could he believe, that, where he was best acquainted, intelligent and honorable men, if they had been drawn in to take these shocking and impious oaths, could consider them as paramount to their duties to God and their country. He was unwilling to pledge himself to unite in a war of indiscriminate proscription against all who had ever borne the name of mason.

The numerous cases of defection from the ranks of the administration party, had inspired some of its opponents with the hope of success, or at least of a bare election of Gen. Jackson. The election, however, showed a different result. Gen. Jackson received of the electoral votes, 219; Mr. Clay, 49; and Mr. Wirt, 7. The 30 Pennsylvania electors voted for William Wilkins, of that state, instead of Mr. Van Buren, for vice-president; and the 11 votes of South Carolina, were given for John Floyd, of Virginia, and Henry Lee, of Massachusetts.

The electoral vote for president, however, was not a true indication of the popular vote, which was less, in the aggregate, than at his first election; some of the states having been carried by small majorities. It was hence inferred that a perfect cordial union of his opponents might have defeated his election.

CHAPTER XLVI.

UNITED STATES BANK—BILL VETOED—AFFAIRS OF THE BANK INVESTIGATED.

A MEMORIAL, in behalf of the stockholders, was presented, asking for a renewal of the charter of the bank. Among the reasons stated for making the application at so early a date, the memorial says: "Unless the question is decided by the present congress, no definitive action can be expected until within two years of the expiration of the charter—a period before which, in the opinion of your memorialists, it is highly expedient, not merely in reference to the institution itself, but to the interests of the nation, that the determination of congress should be known. Independently of the influence which the bank was designed to possess, and which it necessarily exercises over the state of the currency, by which all the pecuniary transactions of the community are regulated, its own immediate operations are connected intimately with the local business of almost every section of the United States, with the commercial interchanges between the several states, and the intercourse of them all with foreign nations."

In the senate, the memorial was referred to a select committee, consisting of Messrs. Dallas, Webster, Ewing, Hayne, and Johnston, of Louisiana. In the house, it was referred to the committee of ways and means, of which Mr. M'Duffie was chairman. A bill was reported in each house; but that of Mr. Dallas in the senate was the one adopted by both houses. It proposed a renewal for only fifteen years; required the same bonus, (\$1,500,000,) to be paid to the government as was required by the charter of 1816. The new bill contained several modifications of the existing charter, some of which Mr. Dallas deemed either unnecessary or injurious; one of which compelled the bank, or any of its branches, to receive in payment of balances due it by state banks, the notes issued by, and payable at any other branch. The constitutional power to establish a bank, Mr. Dallas said, had been asserted and sustained, for so many years, by every department of the government, and had been so long acquiesced in by the people, that he considered that matter as definitively settled.

The report of Mr. M'Duffie, of the house, consisted, chiefly, of his report of 1830; and the bill reported by him provided for continuing the bank for twenty years under its present charter, with some modifications; one of which was, that the president should appoint one of the

directors of each branch ; another, that, for the exclusive privileges and benefits conferred by the act, a certain rate of interest (not mentioned in the bill) should be paid upon the government deposits, instead of a specific sum, as a bonus. Congress also reserved the right of revoking the charter after ten years, by giving three years' notice. And the issue of notes at branches where they were not payable, was prohibited.

The vote on the final passage of the bill, (that of the senate,) was, in the senate, 28 to 20 ; in the house, 107 to 85. The bill was sent to the president for his approval ; and returned with his objections to the senate, where, on the question of its passage, notwithstanding the veto, the vote was 22 to 19, lacking the constitutional majority necessary to its passage.

This exercise of the veto drew upon the president the severe displeasure of the friends of the bank, and the highest commendations of its opponents. By the former, his reasons were deemed frivolous and unsatisfactory ; by the latter, substantial and unanswerable. The president regarded it as one objection to the renewal of the bank, that the stockholders would immediately be largely benefited by an increase of the price of the stock ; and for this gratuity to foreigners and some of our opulent citizens, the act secured no equivalent. The present corporation had long enjoyed the monopoly ; and if we must have such a corporation, why should not the government sell out the whole stock, and thus secure to the people the full market value of the privileges granted, by putting the premium upon the sales into the treasury ?

It had been urged in favor of a recharter, that calling in its loans would produce embarrassment and distress. The time allowed to close its concerns was ample ; and if it had been well managed, its pressure would be light, and heavy only in case its management had been bad.

Another objection was, that a large portion of the stock was held by foreigners. In case of war, should the stock principally have passed into the hands of foreigners, all its operations within would be in aid of the hostile fleets and armies without.

The views of the president in relation to the constitutionality of the bank deserve a careful consideration. His conclusions on this subject differ from those of Mr. Madison, who, in 1816, waived his constitutional scruples, and subsequently maintained, that precedent, the decision of the supreme court, and the long acquiescence of the people, had settled the constitutionality of the bank. Congress, the president said, had as often decided against, as in favor of a bank. And in the states, the expressions of the legislative, executive, and judicial opinions against the bank had been, probably, to those in its favor, as four to one. Precedent was therefore not in favor of the act. Mere precedent

was dangerous authority, except where the acquiescence of the people and the states could be considered as well settled.

The opinion of the supreme court, he contended, ought not to control the coördinate authorities of the government. He said: "The congress, the executive, and the court, must each for itself be guided by its own opinion of the constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. * * * The opinion of the judges has no more authority over congress than the opinion of congress has over the judges; and on that point the president is independent of both." [Appendix, Note E.]

The question of constitutionality was farther discussed; and other objections were presented in the message; to which the reader is referred.

The veto of the bank bill was turned to the account of the president's popularity. The veto message was extensively circulated and read, and greatly increased the opposition to the institution. It met general favor among the friends of the administration, except in the state of Pennsylvania, where a strong opposition to the president was created. In Philadelphia, the excitement was intense. A meeting was held in that city, said to have been one of the largest ever assembled in it, composed in great part of the former friends of the president; from whom the presiding officer, and a majority of the subordinate officers, were selected, in order to render the meeting the more imposing.

The president and his message were treated with great severity, as appears from the resolutions adopted by the meeting, which was truly an "indignation meeting;" its members declaring that they had read the message with "astonishment, indignation, and alarm." It was pronounced a "discreditable document." Its "language, doctrines, temper, and purposes," gave "additional evidence that the opinions and actions of the president were controlled by the influence of designing men, seeking their own continuance in power, at the sacrifice of the country." His rejection of the bank bill, his assaults upon the principles of protection to American industry, upon the supreme court, and upon the independence of congress, had "severed the ties by which the people of Pennsylvania had been connected with him;" and they declared, "that the reflection of a president whose official path had been strewed with violated pledges," and who had "wantonly trampled upon the interests of his fellow-citizens, would be a national calamity." He had "shown an utter contempt of the unanimous voice of Pennsylvania, expressed through her legislature and delegation in congress with regard to the bank, the tariff, and the judiciary;" and this they considered "ungrateful," as it was to "the active and persevering support of that

state, that he was mainly indebted for his elevation to the presidency." Resolutions were also passed, tendering thanks to their senators, Dallas and Wilkins, for continuing to vote for the bank bill after it had been returned.

On motion of Mr. A. S. Clayton, of Georgia, February 23, a committee was appointed in the house of representatives, on the 14th of March, 1832, "to inspect the books, and examine into the proceedings of the bank of the United States." The debate on the proposition was one of the most animated that occurred during the session. Numerous acts of misconduct were alleged against the bank as furnishing ground for the inquiry. The charges were: The issue of \$7,000,000 and more of branch bank orders as a currency; usury; dealing in domestic bills of exchange and disguised loans; non-user of charter; building houses to rent; deficiency of coin; foreigners through their trustees voting for directors; with sundry minor abuses.

Mr. Clayton, who preferred these charges, was replied to by Mr. M'Duffie, who denied some of the acts charged, and vindicated others, as consistent with the charter, and agreeable to the ordinary course of business. A large number of members participated in the debate, in the course of which the merits and demerits of the institution were closely canvassed. The committee appointed under the resolution consisted of Messrs. Clayton, Adams, M'Duffie, Johnson, of Kentucky, Cambreleng, Thomas, of Maryland, and Watmough. Three different reports were made by the members of this committee: the first, from the majority, Messrs. Clayton, Johnson, Cambreleng, and Thomas; the second, from Messrs. M'Duffie, Adams, and Watmough; and the third, from Mr. Adams alone.

The inquiry of the committee was directed to two general objects: 1st. Whether the provisions of the charter had been violated. 2d. Whether there had been any circumstances of mismanagement against which future legislation might guard, or which should destroy its claims to farther confidence.

In relation to the first general object of inquiry, the committee submitted six cases which had been made the subjects of imputation against the bank, without expressing their own opinion as to their force.

1st. Usury. Under a former president of the bank, (Mr. Cheves,) in 1822, the branch at Lexington, having on hand a large amount of depreciated Kentucky bank notes, had loaned some of them to an individual, who said they would answer his purpose as well as any other bills, as they would be used in paying a debt. The minority did not consider this a case of usury. The bank of Kentucky had subsequently redeemed its notes. The loan was made with reluctance, after

repeated applications; yet, after many years, Mr. Biddle being president, the bank had refunded the difference between the nominal and real value. The bank had also, in addition to the rate of interest, charged the rate of exchange. The president of the bank said that was the usual custom, and was not usury.

2d. Issuing branch drafts. It had been found impracticable for the president and cashier to sign a sufficient number of small notes to supply the required circulation from the bank and all its branches. The practice had therefore been adopted of the branches drawing checks on the cashier of the bank for smaller sums than they had been in the habit of furnishing. The opinions of Mr. Binney, Mr. Webster, and Mr. Wirt, the attorney-general, had been taken on the issuing of the branch drafts.

3d. Selling coin, and especially American coin. The bank was authorized to deal in bullion. Foreign coins were considered bullion. Having bought them at a premium, it had sold them at a premium. The bank had in this also acted under legal advice. Dealing in coin, the minority said, was the very end for which it had been created.

4th. Sale of stock obtained from government under special acts of congress; whereas the bank was forbidden by its charter to deal in stocks. The minority considered the right of the bank to sell the stock for which it had been expressly authorized to subscribe, to be of the very essence of the right of property.

5th. Donations for roads, canals, &c. The committee said there might be a question whether the public funds of the bank could be thus appropriated. The minority said the directors had, in two instances, subscribed small sums to certain internal improvements in the vicinity of the real estate of the bank, with a view to the improvement of its value. For this they were responsible to the stockholders alone.

6th. Building houses to rent or sell. This was defended by the minority. The bank was expressly authorized to purchase real estate mortgaged to secure debts previously contracted, and also such as had been sold on executions in its own favor; and the directors had been compelled to take real estate in order to avoid loss. On a part of it they had erected improvements to prepare it for sale, and thus had saved the stockholders from much loss.

Of the allegations under the second general head, we can make room for but one, which was probably the subject of more general remark, as evidence of corrupt management, than any other. It was the loan of money to editors, and especially to Webb and Noah, proprietors and editors of the New York Courier and Enquirer; to whom \$15,000 had been loaned at one time, and \$20,000 at another. What had excited

suspicion in this case was, that this newspaper had been opposed to the bank, but had come out in its favor. Of the whole sum loaned, (\$35,000,) about one-half had been paid—the whole of the \$15,000 note, and \$2,000 of the other. Mr. Webb had made to the directors a statement, sworn to by their book-keepers, of the value and income of their establishment, and showing a nett annual income of more than \$25,000. With these exhibits, Mr. Webb presented a letter of Walter Bowne, mayor of New York, and formerly a director of the Bank of the United States, inclosing the application for the loan, and stating that “he did so with pleasure, and saw no reason against this being treated as a fair business transaction.” That these transactions were so considered, the president and several of the directors testified on oath.

To this testimony was added the fact, that Webb and Co. had in their paper declared themselves in favor of renewing the charter of the bank, four months before their application for the first loan (\$20,000) was made. It was shown, too, that the other had not been received by them from the bank; but had been borrowed of the bank by Silas E. Burrows, a man of large fortune, upon his own responsibility, without the knowledge of Webb or Noah; they both supposing, until near the time of the visit of the committee to the bank, that Mr. B. had obtained the money from his father. He had applied for the money, as Mr. Biddle testified, to befriend Mr. Noah, and assist him in purchasing a share of the newspaper of Mr. Webb. Mr. Biddle, from his own funds, gave Mr. Burrows the money, and took the notes into his own possession, and retained them for a long time, having no occasion to use the funds. They were subsequently entered on the books of the bank. On the 2d of March, 1831, Mr. Burrows paid the notes. The minority, (with the concurrence of Mr. Johnson, making a majority,) saw in these transactions nothing to induce them to doubt the honor or integrity of the directors, most of whom were men of independent fortunes, and having no connection with politics.

The other allegations of the majority were severally met and disposed of by the minority, to the satisfaction, it is presumed, of the friends of the bank, if not to others.

As has been observed, Mr. Adams alone submitted a third report, of very great length, generally in favor of the bank. Of this report we can not attempt even an analysis. A single subject will receive our attention; being deemed necessary from its supposed bearing upon the character of the bank controversy, as well as from the consideration that certain facts disclosed by the investigation were not noticed or commented upon by the committee. They are thus alluded to by Mr. Adams: “They are not noticed in the report of the chairman, but, in

the opinion of the subscriber, are more deserving of the attention of congress and of the nation, than any other papers commented upon in the report." These papers tended to confirm the suspicious extensively entertained, that the opposition to the bank arose from an unsuccessful attempt, on the part of the executive department of the government, to acquire a political and pecuniary control over the proceedings of the bank and its branches.

On the 11th of July, 1829, Mr. Ingham, secretary of the treasury, transmitted to Mr. Biddle a copy of a confidential letter from senator Woodbury, of N. H., containing a complaint against the president of the branch bank of the United States at Portsmouth, and stating that complaints of a similar nature had been suggested from other places, particularly from Kentucky and Louisiana. The charge was, that the influence of the bank was used "with a view to political effect." The letter of Mr. Woodbury represented the recent change in the presidency of the bank as generally dissatisfactory. He said: "The new president, Jeremiah Mason, is a particular friend of Mr. Webster, and his political character is well known to you." He said the people desired the removal of the present president; and many of them had requested him to ask his (Mr. Ingham's) influence at the mother bank in producing a change.

Mr. Biddle, in answer, says, that the inference of Mr. Woodbury's letter is, that the former president had been removed to make way for Mr. Mason with an increased salary, and that the bank was using its influence against the present administration. He thought this view of the subject erroneous. 1st. The presidency had not been changed by the bank; the former president having declined serving, in consequence of advanced age and declining health. The bank had not desired a change. 2d. The salary had not been increased. Mr. Mason was only receiving an annual allowance as counsel for the bank, in addition to his salary. 3d. Mr Webster had had no agency in obtaining for him the appointment. 4th. He (Mr. Biddle) was surprised that Mr. Woodbury should consider the complaints about Mr. Mason as having any connection with politics; and for this reason: Mr. Woodbury had written to him (Mr. B.) a letter on the same day on which he had written to him, (Mr. I.), asking the removal of Mr. Mason. He (Mr. B.) had answered Mr. Woodbury's letter, and requested him to aid his inquiries, by stating the nature of the complaints against Mr. Mason.

In his reply to this request, Mr. Woodbury said: "It is due in perfect frankness to state, that the president of the present board, as a politician, is not very acceptable to the majority of this town and state. But it is at the same time notorious, that the charges against him, in his present office, originated exclusively with his political friends."

This statement, that the complaints were made by Mr. Mason's political friends, Mr. Biddle thought irreconcilable with the statement of the same person to him, (Mr. Ingham,) that the bank was managed "with a view to political effect;" and he expressed the opinion, that it would appear, "that Mr. Mason had had the courage to do his duty, whether he offended his political friends or not. He might have done his duty too rigidly; that was a fit subject for examination, and should be examined." In another letter inclosed in the above, Mr. B. says: "It has been the settled policy of the institution, pursued with the most fastidious care, to devote itself exclusively to the purposes for which it was instituted; to abstain from all political contests." He said he had not, during his long acquaintance with the bank, known a single instance of its perverting its power to any local or party purposes. He thought it as necessary to a successful administration of the government as to that of the bank, that the latter should be entirely independent of party influence.

The secretary, in his answer, (July 23,) says, "it is impossible that the character of all the acts of the directors, much less their motives, could be known to the board;" hence Mr. Biddle's declaration that no loans had been made or withheld from party considerations "must be received rather as evidence of his own feelings, than as conclusive proof of the fact so confidently vouched for." He claimed it as the right of the department "to which was assigned the direction of the relations between the government and the bank, to suggest its views as to their proper management." And he intimated his objection to a course of action, on the part of the bank, "that either resisted inquiry, or what was of the same tendency, entered upon it with a full persuasion that it was not called for."

The directors, however, before this last letter was received, had determined on a rigorous examination of the complaints against the administration of the branch at Portsmouth; and Mr. Biddle had already gone thither for that purpose. The letter was therefore answered by Gen. Cadwallader, acting president, by direction of the board. Among other things stated in the letter, he reiterated the opinion of the board, that no loans had been made or withheld from party considerations; and it needed not to be thought surprising, that, "while hundreds of thousands of our citizens, in the various pursuits of life, refuse to yield their honest convictions to party prejudices, a few hundred of our countrymen, carefully selected from the most independent, intelligent, and upright, should be found sufficiently honest to prefer their duty to their party." But if the offenses alleged should be found to exist in any quarter, the offenders would be promptly visited "with the utmost severity of censure and punishment."

A short time previously to this, Mr. Isaac Hill, of New Hampshire, then second controller of the treasury at Washington, wrote to two of his friends at Philadelphia, and agreeably to the suggestions he had made to them when he saw them there, sent them two petitions to the president and directors of the bank, asking for a change in the board of directors at Portsmouth; one of which was signed by about sixty members of the New Hampshire legislature. Mr. Hill remarked in this letter, that "the friends of Gen. Jackson in New Hampshire have had but too much reason to complain of the management of the branch at Portsmouth." Of the ten persons named in the petition for directors, four were friends of the administration.

About the same time, an effort was made, the object of which will be seen from the following extract of a letter from Mr. Mason to Mr. Biddle, dated July 21, 1829: "An attempt is making to remove the pension agency from this office to Concord, in this state. During the session of our legislature, in June, a memorial was gotten up by Mr. Isaac Hill, second controller of the treasury of the United States, and signed by divers of his warm political partisans, and others particularly interested in the matter, addressed to the secretary of the treasury, urging the central situation of Concord as a reason for the removal. Mr. Hill's object, doubtless, is to benefit a small bank at Concord, of which, till his removal to Washington, he was the president."

Then follows a letter from the secretary of war to Mr. Mason, directing the books, papers, and funds of the New Hampshire pension agency to be transferred to Wm. Pickering, of Concord. Mr. Mason objected to this order, as being contrary to law; and it was eventually withdrawn. It may be known to every reader, that, by the charter of the bank, it was made the duty of the bank to make the disbursements of the public moneys for the government; hence the funds for paying pension claims, were placed for this purpose in the branches of the bank in the several localities; and Mr. Mason denied the legality both of the order of the secretary, and of his own right to surrender the pension funds, papers and books, as required. This opinion of Mr. Mason was sustained, in 1832, by secretary Cass, Mr. Eaton's successor in the department of war. On account of the greater convenience to pensioners beyond the southern counties of the state of New York in the vicinity of New York city, the Mechanics' and Farmers' Bank in the city of Albany, had been selected as the medium through which pensions were to be paid. Against this Mr. Biddle had remonstrated as being illegal. But the agency was continued until after Mr. Cass's appointment; who wrote officially to Mr. Biddle, March 1, 1832: "I am satisfied, from a careful examination of the laws of congress, that this department is not war-

ranted in appointing a pension agent in any state or territory where the United States bank has established one of its branches."

Mr. Biddle, after his return from New Hampshire, in one of his letters to Mr. Ingham, notices the singular fact, that "on the eve of an election for an officer of this bank in New Hampshire, the senator from New Hampshire, the second controller from New Hampshire, the legislature of New Hampshire, the merchants of all parties in New Hampshire, were all arrayed to complain of his abuses, and to show how loudly public opinion demanded his removal, just at the moment when the administration had declared to the bank, that public opinion was the only safe test of such accusations. * * * After a calm and thorough investigation, they (the board) found that all these accusations were entirely groundless; that the most zealous of his enemies did not venture to assert that he had ever, on any occasion, been influenced by political feelings, and that this public opinion, so imposing in the mist of distance, degenerated into the personal hostility of a very limited, and, for the most part, very prejudiced circle. Mr. Mason was therefore immediately reelected."

Mr. Ingham, in reply, disclaimed any knowledge of Mr. Hill's movement against Mr. Mason. He claimed for the government a supervising power over the bank, and a right to coerce it by withdrawing public deposits, and otherwise. "The bank," he said, "can not, if it would, avoid the action of the government in all its legitimate operations and policy, however disposed it might be after calculating the immensity of its coffers, and the expansion of its power, to assert a superiority or insensibility to such action. The pretension could only excite a smile. Compared to the government, the bank is essentially insignificant." He said, however, "No one can more fervently desire than I do, that the bank shall, in all its ramifications, be absolutely independent of party."

Another letter from Mr. Biddle to Mr. Ingham, closes the correspondence; but any extracts from it are considered unnecessary. This correspondence terminated in October, about two months before the appearance of president Jackson's first annual message, disclosing his opposition to the bank.



CHAPTER XLVII.

SOUTH CAROLINA NULLIFICATION.—JACKSON'S PROCLAMATION.—FORCE BILL.—COMPROMISE TARIFF.—PEACE.—LAND BILL.—CLOSE OF JACKSON'S FIRST TERM.

THE anti-tariff excitement at the south continued without abatement. Public meetings, especially in the state of South Carolina, the addresses of M'Duffie, Hayne, Hamilton, and other high officials, and the acts and proceedings of the state legislature, kept the public mind in a state of effervescence. Forceful resistance, so long threatened, was at length resolved on, as "the last resort"—as the only remedy for the evils inflicted upon them by the general government. It is not improbable that the countenance given in several states to the doctrines of Hayne and others in the senate had encouraged the Carolinians in their purposes of practical nullification. The legislatures of Virginia and Georgia had also asserted the principles of nullification; but these states were unwilling to carry out those principles by a forcible opposition to the tariff laws. Georgia, however, had denied the authority of the supreme court to decide questions involving the validity of treaties, and of the laws of congress; and the executive had sanctioned her construction of the constitution.

The note of preparation for collision with the general government was at length sounded. The legislature of South Carolina was convened by the governor the 22d of October, 1832, for the purpose of authorizing a convention "to consider the character and extent of the usurpations of the general government." An act was accordingly passed for a convention to be held on the 3d Monday of November. The passage of the act was hailed at the seat of government by the firing of cannon, and music from a band stationed near the doors of the capitol. The members of the minority, belonging to the "union, state rights and Jackson party," held a meeting, at which they declared their opposition to the nullification scheme, and appealed to the people of the state to discountenance it.

The convention assembled on the 19th of November, and on the 24th, adopted an ordinance declaring the tariff act null and void; making it unlawful for the authorities of either the general or state government to enforce the payment of duties within that state; and enjoining the legislature to pass laws giving effect to the ordinance. No sanction was to be given to any appeal to the supreme court of the

United States, from the decisions of the state courts, involving the authority of the ordinance, or the validity of any acts of the legislature giving effect thereto, or the validity of the tariff act of congress. All public officers were required to take an oath to obey and execute the ordinance, and the acts of the state passed in pursuance thereof. Any act that congress should pass to authorize the employment of force against South Carolina, was declared to be null and void, and would not be submitted to; and from the time of its passage, the state would consider herself absolved from farther obligations to the union, and proceed to organize a separate government. The ordinance was to take effect the 1st of February, 1833.

The president, in his message to congress, in December, briefly alluded to the opposition to the revenue laws which had arisen in that state. He expressed the belief that the laws themselves were adequate to the suppression of any attempt that might be made to thwart their execution; but said: "Should the exigency arise, rendering the execution of the existing laws impracticable, from any cause whatever, prompt notice of it will be given to congress, with a suggestion of such views and measures as may be deemed necessary to meet it."

The message had scarcely been delivered, when intelligence of the passage of the ordinance by the South Carolina convention reached Washington. On the 11th of December was issued the celebrated proclamation of president Jackson, in which he stated his views of the constitution and laws applicable to the measures adopted by the convention, and declared the course which duty would require him to pursue.

A clearer, and, as is believed, a more correct exposition of the nature and powers of the general government is hardly to be found in any public document. The proclamation combatted the nullifying doctrine of the convention, that there is no appeal from the decision of a state. It regarded reasoning on the subject superfluous, as the constitution of the United States expressly declared, that the constitution and the treaties and laws made under it, were "the supreme law of the land," and that "the judges in every state were bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding." Said the president: "No federative government could exist without a similar provision. Look for a moment at the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected anywhere; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the state itself

for every law operating injuriously upon local interests will be perhaps thought, and certainly represented, as unconstitutional; and, as has been shown, there is no appeal.

"If this doctrine had been established at an earlier day, the union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non-intercourse law in the eastern states, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but fortunately none of those states discovered that they had the right now claimed by South Carolina. * * * The discovery of this important feature in our constitution was reserved to the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that state will unfortunately fall the evils of reducing it to practice.

"If the doctrine of a state veto upon the laws of the union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation, had it been proposed to form a feature in our government."

The president here adverts to the leagues formed during our colonial state; and to the confederation. Every state was to "abide by the determinations of congress, on all questions, which, by the confederation, should be submitted to them." He said: "Under the confederation, then, no state could legally annul a decision of the congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with. The government could not operate on individuals. They had no judiciary, no means of collecting revenue. * * * This state of things could not be endured; and our present happy constitution was formed, but formed in vain, if this fatal doctrine prevail." A "more perfect union" was then formed by "the people of the United States;" and he asks: "Can it be conceived that an instrument made for the purpose of forming a more perfect union than the confederation, could be so constructed by the assembled wisdom of our country, as to substitute for that confederation a form of government dependent for its existence on the local interest, the party spirit of a state, or of a prevailing faction of a state?" He then says: "The constitution declares that the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the constitution, and treaties shall be paramount to the state constitutions and laws."

In relation to the threat of seceding from the union, in case of an attempt to enforce the revenue laws, the president says: "This right to

secede is deduced from the nature of the constitution, which, they say, is a compact between sovereign states who have preserved their whole sovereignty, and therefore are subject to no superior; that because they made the compact, they can break it when, in their opinion, it has been departed from by the other states. Fallacious as this reasoning is, it enlists state pride, and finds advocates in the honest prejudices of those who have not studied the nature of our government sufficiently to see the radical error on which it rests."

The nature of the union under the constitution is thus described:—"The people of the United States formed the constitution, acting through the state legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but the terms used in its construction, show it to be a government in which the people of all the states collectively are represented. We are ONE PEOPLE in the choice of the president and vice-president. Here the states have no other agency than to direct the mode in which the votes shall be given. The candidates having the majority of all the votes are chosen. The electors of a majority of the states may have given their votes for one candidate, and yet another may be chosen. The people, then, and not the states, are represented in the executive branch.

"In the house of representatives there is this difference, that the people of one state do not, as in the case of president and vice-president, all vote for the same officers. The people of all the states do not vote for all the members, each state electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular state from which they come. They are paid by the United States, not by the state; nor are they accountable to it for any act done in the performance of their legislative functions; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

"The constitution of the United States, then, forms a government, not a league; and whether it be formed by compact between the states, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the states; they retained all the power they did not grant. But each state having expressly parted with so many powers as to constitute, jointly with the other states, a single nation, can not, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation

and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offense against the whole union. To say that any state may at pleasure secede from the union, is to say that the United States are not a nation; because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offense. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right, is confounding the meaning of terms, and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure. * * *

"Because the union was formed by compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it; but it is precisely because it is a compact, that they can not. A compact is an agreement or binding obligation. It may, by its terms, have a sanction or penalty for its breach, or it may not. If it contains no sanction, it may be broken with no other consequence than moral guilt; if it have a sanction, then the breach incurs the designated or implied penalty. A league between independent nations, generally, has no sanction other than a moral one; or if it should contain a penalty, as there is no common superior, it cannot be enforced. A government, on the contrary, always has a sanction, express or implied; and, in our case, it is both necessarily implied and expressly given. An attempt, by force of arms, to destroy a government, is an offense, by whatever means the constitutional compact may have been formed; and such government has the right, by the law of self-defense, to pass acts to punish the offender, unless that right is modified, restrained, or resumed, by the constitutional act."

"The assumed right of secession," he repeated, "rests on the alleged undivided sovereignty of the states, and on their having formed, in this sovereign capacity, a compact, which is called the constitution, from which, because they made it, they have the right to secede." This position he deemed erroneous, saying: "The states severally have not retained their entire sovereignty. It has been shown that, in becoming parts of a nation, not members of a league, they surrendered many of their parts of sovereignty. The right to make treaties, declare war, levy taxes, exercise exclusive judicial and legislative powers, were all of them functions of sovereign power. The states, then, for all these important powers, were no longer sovereign. The allegiance of their citizens was transferred, in the first instance, to the government of the United States; they became American citizens, and owed obedience to

the constitution of the United States, and to the laws made in conformity with the powers it vested in congress."

The president admonishes the Carolinians not to incur the penalty of the laws, and tells them they have been deluded by men who were either deceived themselves, or wished to deceive others; who had led the people to the brink of insurrection and treason, under the pretense, that the diminution of the price of their staple commodity, and the consequent diminution in the value of their lands, caused by over production in other quarters, were the sole effect of the tariff. And he mentioned the various arts and arguments and appeals of these men to induce them to enter this dangerous course.

Again addressing his "fellow-citizens of the United States," he says: "The threat of unhallowed disunion, the names of those, once respected, by whom it is uttered, the array of military force to support it, denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and as the claim was asserted of a right by a state to annul the laws of the union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin and form of our government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties which has been expressed, I rely, with equal confidence, on your undivided support in my determination to execute the laws, to preserve the union by all constitutional means, to arrest, if possible, by moderate, but firm measures, the necessity of a recourse to force; and, if it be the will of Heaven, that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act of the United States."

The views expressed in the foregoing exposition of the nature and powers of the general government, are, as will be seen, the opposite of those claimed for the president by his friends in the "great debate" in the senate, in 1830. They are substantially those maintained by Mr. Webster and other opposition senators; and they differ in no particular, it is believed, from the opinions expressed in that debate by senator Livingston, who was at this time secretary of state, and who had the credit of having prepared the proclamation. The authority so unqualifiedly denied to the supreme court by Messrs. Hayne, Benton, Rowan, and other administration senators, is here fully acknowledged as well as ably maintained.

Immediately after the adjournment of the South Carolina convention, on the 27th of November, 1832, the legislature assembled, and passed the laws necessary to give effect to the ordinance. These laws prohibited the collection of the revenue by the officers of the United States, and placed at the command of the governor the militia of the state, to resist the enforcement of the laws. Arms and ammunition were ordered to be purchased, and all needful preparation was made for that purpose.

The proclamation of the president met a most unwelcome reception in that state. It was denounced as a "declaration of war by Andrew Jackson against the state of South Carolina;" the "edict of a dictator;" a "federal manifesto, palmed upon us as Andrew Jackson's, by Livingston or Van Buren, or some other intriguer behind the dictator's throne;" and the people of the state were exhorted to "take up arms" as the "only course which honor and duty prescribed" for the defense of the state. The proclamation was received with equal disfavor by the legislature. In the house of representatives, Mr. Preston said: "We should hurl back instant scorn and defiance for this impotent missile of despicable malignity. Of answer to its paltry sophisms and disgraceful invectives, it is utterly unworthy. But the country and the world should know how perfectly we despise and defy him; and they should be told that before they plant such principles as his upon our free soil, the bones of many an enemy shall whiten our shores—the carcasses of many a caitiff and traitor blacken our air." The governor was requested to issue a proclamation, warning the people not to be seduced by the president from their allegiance; "exhorting them to disregard his vain menaces, and to be prepared to sustain the dignity, and protect the liberty of the state."

The governor of the state at this time was Mr. Hayne, who had just been elected, and whose place in the senate of the United States had been supplied by the appointment of Mr. Calhoun, who had for this purpose resigned the office of vice-president in the latter part of December. A proclamation was accordingly issued by Gov. Hayne. It opposes that of the president by a constitutional exposition similar to that contained in his speeches in 1830; and, claiming for the states "nullification as the rightful remedy," he requires the people of the state to protect their liberties, "if need be, with their lives and fortunes;" concluding with an invocation to "that great and good Being, who, as a 'father, careth for his children,' to inspire them with that holy zeal in a good cause, which is the best safeguard of their rights and liberties."

Orders were also issued for increasing the military force of the state; and the governor was authorized to accept the services of volunteers, who were to be ready to take the field at a moment's warning, "to sup-

press insurrection, repel invasion, or support the civil authorities in the execution of the laws." The "union party" men, however, were determined to sustain the general government.

The belligerent proceedings of the Carolina legislature were followed, on the 16th of January, 1833, by a message of the president to congress, communicating the proceedings of South Carolina, and suggesting the adoption of such measures as the crisis seemed to demand. A bill was reported by the judiciary committee, empowering the president to employ the land and naval forces of the union, to enforce the collection of the revenue, if resistance should be offered.

While preparations were making for the expected conflict, measures were in progress designed to avert the dreaded calamity. The state of Virginia assumed the office of *mediator*. Resolutions were adopted by the legislature, requesting South Carolina to rescind her nullifying ordinance, or at least to suspend its operation until the close of the first session of the next congress; requesting congress gradually and speedily to reduce the revenue from duties on imports to the standard of the necessary expenditures of the government; and reasserting the doctrines of state sovereignty and state rights as set forth in the resolutions of 1798, which neither sanctioned the ordinance of South Carolina, nor countenanced all the principles of the proclamation, many of which, they said, were in direct conflict with them. It was also resolved to appoint a commissioner to proceed to South Carolina, with the resolutions, and communicate them to the governor, to be laid before the legislature; and to expostulate with the public authorities and people of that state for the preservation of the peace of the union. Benjamin Watkins Leigh was appointed to the mission.

Another measure having in view the conciliation of the southern opponents of the tariff, was a new attempt to modify the tariff. The secretary of the treasury in his report to congress urged a reduction of the duties to the revenue standard; and in the house, the subject was referred to the committee of ways and means. On the 27th of December, Mr. Verplanck, chairman, reported a bill, proposing a gradual reduction of duties, within two years, to little more than half the rates under former tariffs. The discussion of this bill continued until late in February, less than two weeks before the close of the session; having undergone so many amendments as almost to have lost its identity. Although there was little prospect of its passage at this session, the friends of a protecting tariff feared that another attempt would be made in the next congress, and perhaps with success, to destroy protection.

Under this apprehension, and while the "bill to provide further for the collection of the duties on imports," or "force bill," was still pend-

ing in the senate, Mr. Clay, on the 12th of February, 1833, introduced his compromise tariff bill, which he explained and supported by a speech of considerable length. The bill had two objects: one was to prevent the destruction of the tariff policy, which was in imminent danger; the other, to avert civil war, and restore peace and tranquillity to the country.

By the provisions of this bill, as finally passed, in all cases where the duties on foreign goods exceeded 20 per cent., the excess was to be gradually deducted by the 30th day of September, 1842, thus: one-tenth from and after the 30th day of December, 1833; another tenth after the 30th day of September, 1835, and another tenth every second year thereafter, until the 30th of September, 1841; after which day, one-half of the remaining excess; and after the 30th of September, 1842, the residue of such excess. It was provided, however, that the duty on coarse woollens costing not more than \$5 cts. the square yard, which had, by the tariff act of 1832, been reduced to 5 per cent., should first be raised to 50 per cent., the same as was charged on other woollens. To the list of articles free of duty, after the 30th of September, 1833, were added, linens, silk manufactures coming from this side of the Cape of Good Hope, and worsted stuff goods; and after 1842, a large number of other articles, most of them, however, such as were not produced in this country, or as did not need protection. After 1842, however, on all goods then free, or paying a less duty than 20 per cent., congress might, at discretion, impose duties not exceeding 20 per cent. on the home valuation; and all duties were, after 1842, to be paid in cash, and credits abolished.

On the question of granting leave to introduce the bill, the objection was made by some senators, that bills for raising revenue, (and such were all tariff bills,) could originate only in the house of representatives. On the other hand it was contended, that this being a bill *to reduce* the revenue, its originating in the senate was not prohibited by the constitution.

The opposition to the bill was chiefly from the advocates of protection. Mr. Webster opposed the bill, because, in giving up specific duties and substituting *ad valorem*, the bill abandoned the protective policy. It seemed to surrender the constitutional power of protection. He opposed it because it restricted the future legislation of congress. After a few of the first reductions, the manufacturers of some kinds of goods would be ruined. Of these goods were boots, shoes, and clothing. Calico printing establishments would be broken up. Woollen establishments could not stand with a duty of 20 per cent. The protection on iron, too, was insufficient. The change from specific to *ad valorem*

duties would be injurious. The surrender once made, we could never return to the present state of things.

Mr. Clay replied. He said the honorable gentleman apprehended no danger to the tariff. Witness the recent elections—the message of the president—the opposition of a majority of the friends of the administration to the tariff. The protection afforded by the bill would be ample for several years, during which period manufactures would acquire strength. He was willing the manufacturers themselves should decide the question; many of them, then in Washington, and others from whom he had received letters, had expressed themselves in favor of the bill. They now would know what to depend on, and could regulate their operations accordingly. He did not fear any misconstruction of the pledge contained in the bill; and he hoped the manufacturers would go on and prosper, confident that the abandonment of protection was never intended, and looking to more favorable times for a renewal of a more effective tariff. Mr. C. also replied to the remarks of gentlemen who would enforce the collection of duties under the existing laws, without making any concession to South Carolina. He said: “The opponents of the bill rely on force; its friends cry out force and affection. One side cries out, power! power! power! The other side cries out, power, but desires to see it restrained and tempered by discretion and mercy, and not create a conflagration from one end of the union to the other.”

On the day of the above debate, (Feb. 25,) on motion of Mr. Letcher, of Kentucky, the committee of the whole, in the house of representatives, struck out the body of Mr. Verplanck's bill, and inserted that of Mr. Clay, from the senate. It was ordered the same day to its third reading; ayes, 105; noes, 71; and on the next day it was passed, 118 to 84.

On the first of March, the bill as passed by the house, was again taken up in the senate, and supported by Messrs. Calhoun, Ewing, Mangum, Clayton, Frelinghuysen, Sprague, Holmes, Bibb, and Clay; and opposed by Messrs. Robbins, Dallas, Webster, Silsbee, Forsyth, and Wright, the last objecting, among other things, to the abolition of specific and discriminating duties. Both he and Mr. Forsyth, however, voted for the bill, probably on the ground of its being a measure of pacification. The vote on its passage was, ayes, 29; noes, 16.

The final passage of the “enforcement bill,” was delayed in the senate, until the 20th of February, when it was passed: ayes, 32; nays 1—Mr. Tyler; other senators opposed to the bill, having withdrawn. It passed the house on the 28th: ayes, 150; noes, 35.

The nullifying acts of South Carolina were to go into effect the first of February. Their operation, however, was suspended. The interposition of Virginia would seem to have been most effectual, having accomplished its object in advance of the arrival of commissioner Leigh in

South Carolina. Gov. Hayne, in answer to the communication of Mr. Leigh, conveying the request of the state of Virginia, said as soon as it was known that that state had taken up the subject in a friendly spirit, and that a bill for the modification of the tariff was before congress, it was determined, by common consent, to suspend the operation of the ordinance until after the adjournment of congress. The passage of the compromise tariff act, though not altogether acceptable, was gladly *accepted* as furnishing an ostensible reason for retreating from the unenviable position she had rashly assumed. The convention was reassembled on the 11th of March, at the call of the governor; and the nullifying ordinance was repealed on the alleged ground of the modification of the tariff, and the friendly disposition of the state of Virginia.

The enforcing act, however, was roundly reprobated. The president of the convention, on its reassembling, pronounced the act of congress "to coerce a sovereign state in this union," a "broad usurpation." As far as its authority extended, it "changed the character of our government into a military despotism."

The committee of the union convention, appointed to fix the time and place for its reassembling, considering peace restored, postponed indefinitely the contemplated meeting; stating, however, that if new acts of tyranny by the dominant party should call for opposition, the convention would be convoked.

As was expected, South Carolina claimed the glory of a triumph. The sentiments of the nullifying party generally, were correctly expressed in the following, from one of its leading newspapers: "Never was there a prouder instance of the might of just principles, backed by a high courage. This little state, in the mere panoply of courage and high principles, has foiled the swaggering giant of the union. 30,000 Carolinians have not only awed the wild west into respect—compelled Pennsylvania stolidity into something like sense—New York corruption into something like decency—Yankee rapacity into a sort of image of honesty; but, (alluding to the union party,) all this has been loftily and steadily done in the face of 17,000—what shall we call them? What epithet is of a shame, wide, lasting and deep enough, for the betrayers of the liberties of their own country—the instigators of merciless slaughter—the contrivers of irretrievable servitude, against their own struggling state?

"The tariff, then, is overthrown; the corrupt majorities in congress have yielded. The madness of the government has, at last, found a slight lucid interval." Speaking of "Wilkins' bill; the 'bloody bill,'" as the collection act was called, the editor said he believed it had been passed "in mere bravado, only to cover the shame of their defeat;"

it was "quite certain that it would not be submitted to by that state."

The three union members of congress, Blair, Drayton, and Mitchell, were denounced as "natural wretches"—"miscreants"—for having voted for the "bloody bill."

A writer in the *Charleston Mercury*, indulging in a *pious* vein, said: "Who does not perceive in this the hand of the Almighty, supporting the cause of the oppressed, and turning even the heart of the oppressor to the purposes of justice? * * * What less than that Power could have torn Mr. Clay from his darling policy, and from all his cherished notions of government, and have induced him to sacrifice them all upon the altar of peace and union?" The editor remarked in relation to the passage of the enforcing bill: "It may be considered as nothing more than an ebullition of spleen. It will record the spite of the administration against certain men, and show what enormities it would perpetrate, were the opportunity afforded. Our convention will do no more than declare it void; and it will remain dead upon the statute book, a monument of the corruption of the times, a record of treason to the constitution and liberty, which its authors will ere long wish in vain to have utterly erased from the memory of the republic."

The bill of Mr. Clay, to distribute, for a limited time, the proceeds of the sales of public lands, which passed the senate at the preceding session, was renewed at the session of 1832-33, and with some amendments, passed both houses: the senate by a vote of 24 to 20; the house, 96 to 40. An amendment had been made to it in the house, restricting the application of the funds accruing to the several states, to three objects, education, internal improvement and colonization. This amendment was concurred in by the senate on the 1st of March, the last day but one of the session, the 3d of March happening this year on Sunday. The bill was sent to the president for his approval, but was not returned by him until the next session. It was believed that, had it been returned, it would have passed both houses by the constitutional majority of two-thirds, notwithstanding the president's objections.

Censures were unsparingly bestowed upon the president for his having retained the bill. His friends, however, considered his course fully justified by the lateness of the hour at which the bill was received, which rendered it impossible to give it due consideration, and to prepare a statement of his objections.

On the 5th of December, 1833, the veto message, returning the bill, was received by the senate. The following were the principal objections stated in the message:

The bill contemplated no permanent arrangement. Being limited to

five years, the question of the disposition of the public lands would again become a source of agitation.

The rule of distribution proposed, was in violation of the condition on which they were ceded by the states. They were to be disposed of for the common benefit of the states, according to their respective proportions in the general charge and expenditure, and for no other purpose. But the bill provided that twelve and a half per cent. should be taken out of the net proceeds of the sales, for the benefit of the states in which the lands were, before the general distribution was made; and then the ratio of distribution was not to be according to the general charge and expenditure, but in proportion to the federal representative population.

It was also liable to a constitutional objection. It would create a surplus revenue for distribution among the states; and it reasserted the principle contained in the Maysville road bill of 1830, proposing to appropriate public money for local objects.

Besides, the proposed measure would be of no advantage to either the old or new states. Whatever was taken from the treasury in this way, must be replaced by collections from the people through other means.

Mr. Clay indulged in strong censures of the president for retaining the bill. It had passed the senate at the session before the last, and, having been before the country a whole year, and been made the subject of commentary by the president himself in his message, at the last session, it must have been understood by him. The shortness of the session, therefore, ought not to have prevented the return of the bill.

Mr. Benton vindicated the president. Of the one hundred and forty-two acts of the last session, about ninety were signed on the last day of the session, and thus a mass of business had been thrown on the president which it was almost impossible to perform. And now the people were called on to revolt, because the president had not on that day, in addition to this mass of business, written the paper now read, and sent the bill back. He had made up his mind in opposition to the bill, but no human hands could have written out the document itself.

Mr. Clay, rejoining, said this press of business occurred with every president on the day before the termination of the short session of congress. But how did it happen that the president could find time to decide upon so many new bills of most of which he had never heard, and yet had not time to dispose of one upon which he had long before pronounced judgment? Mr. C. denied that the constitution gave the president ten days to consider bills at the short session. To guard against a sudden adjournment, depriving him of due time to consider an important bill, the constitution allowed him ten days; but the short session terminated not by adjournment, but by a dissolution of congress, on the 3d

of March, a day fixed by the constitution, and known to all. Therefore, the act of withholding the bill was unconstitutional and arbitrary; by which congress had been deprived of the right of passing on the bill after it had been considered by the president. If he had not had time to lay his reasons before the senate, respect to congress required of him at least a communication to that effect. .

Mr. Benton said that no quorum sat in either house on the evening after the day on which the bill was sent to the president.

A new bill similar to the former, was introduced by Mr. Clay, and referred, with the veto message, to the committee on public lands. The committee reported the bill to the senate, with a review of all the objections of the president. Only two points will be here noticed. The president had, in his annual message of 1832, and again in the veto message, suggested, as the proper mode of disposing of the public lands, that the price should be graduated, and after they had been offered for a certain number of years, those remaining should be abandoned to the states in which they lie. This plan, he said, would violate no compact. Now if it was inconsistent with the deeds of cession to distribute one-eighth part of the proceeds of the lands to the new states, how could it be otherwise to relinquish the whole of the lands after a few years, to those states? The distribution proposed by the bill did not introduce a new principle. It had ever been the practice of congress to make grants of land for the benefit of the new states. Eight millions of acres had been thus granted.

The committee agreed with the president that the lands were ceded on condition that they should be disposed of for the common benefit of the states, and for no other purpose whatever; and that the public debt might be considered as now paid, and the lands consequently released from the lien. But they did not agree with him that the power of congress over all the public lands remained the same under the constitution as under the confederation. Most of them had been acquired by treaty. These were not affected either by the articles of confederation, or by the deeds of cession; and congress could dispose of them at discretion. And the practice had been to extend this power even to the ceded lands. It was impossible to say whether each state did derive benefit from the public lands in proportion to its charge in the general expenditure, as the amount of contribution could not be ascertained. That clause in the deeds of cession had been inserted in reference to the articles of confederation, by which the contribution of each state was fixed and known; whereas, revenue was now collected, not from states in their sovereign character, but from the mass of the community, according to consumption.

The committee on public lands in the house, made a report at this ses-

sion in favor of reducing and graduating the price, and a similar proposition was made by Mr. Benton in the senate. But no decisive action on the subject was taken in either house.

The first term of Gen. Jackson's administration, which closed the 3d of March, 1833, was distinguished no less by the unusual number of important questions which were decided under it, than by the general agitation of the public mind produced by the manner in which many of these questions were determined. Respecting its effects upon the interests of the country, public sentiment was much divided. This difference of opinion was principally confined to the domestic policy of the administration. Even its opponents acknowledged our foreign relations, except in the case of the West India arrangement, to have been ably conducted. A commercial treaty was concluded with Austria; a treaty with the Ottoman Porte, (Turkey;) a treaty with the kingdom of the Two Sicilies, by which \$1,720,000 was to be paid, as an indemnity for claims of citizens of the United States for depredations upon our commerce by the king of Naples, (Murat,) from 1809 to 1812. A treaty of commerce, and one relating to boundary, were concluded with Mexico.

An important treaty with France also was concluded at Paris, in 1831, by Mr. Rives, on the part of the United States, by which the long standing difficulties between the two countries were adjusted. The claim of our government for spoliation, so long resisted by a counter claim for the alleged non-performance on our part of the stipulation in the treaty of 1778, guarantying to France assistance in defending her West India islands against the attacks of Great Britain, was determined by this treaty. The sum stipulated to be paid as indemnity to American citizens for property taken, was 25 millions of francs, or nearly \$5,000,000; which, though not exceeding one-half or one-third of the original claim, was probably as much as there was reason to expect: and it was no inconsiderable point gained, that a long pending negotiation was at length brought to an amicable termination. French claims against the United States, to the amount of 1,500,000 francs, were allowed to that government; and a claim of France for duties on her shipping in the ports of Louisiana, from which she claimed exemption by the provisions of the Louisiana treaty, was yielded in the negotiation. As a consideration for the abandonment of this claim, French wines were to be admitted, for ten years, at very low rates of duty; and France stipulated to reduce the duties on American long staple cottons to the rates charged on short staple cottons.

By the terms of the treaty, the French debt was payable in six annual instalments, the first of which became due the 2d of February, 1833. A bill drawn on the French government, and to be sold on the best

terms that could be obtained, was purchased by the bank of the United States, and presented for payment; but no appropriation having been made for that purpose by the chamber of deputies, the bill was dishonored. The subject was discussed at several successive sessions of the deputies, without making the necessary appropriations.

CHAPTER XLVIII.

THE BANK CONTROVERSY.—REMOVAL OF DEPOSITS.—BANK INVESTIGATION.

THE second term of Gen. Jackson's administration commenced the 4th of March, 1833. The southern excitement having been effectually allayed by a modification of the tariff in which the south had agreed to acquiesce, and the presidential contest having been decided by the triumphant reelection of the incumbent who could not be suspected of any future political aims; a more tranquil state of the public mind during the ensuing term, was generally anticipated. The settlement of the bank question also, at least for the official term of Gen. Jackson, had strengthened the general expectation of a comparatively peaceful administration. As the event will show, however, causes of high political excitement were not wanting, among which the bank controversy was by no means the least.

The question as to the recharter of the bank having been determined, it was next intended to withdraw from it the public deposits, under the expressed apprehension that they were not safe in that institution. In his last annual message, (December, 1832,) the president said: "Such measures as are within the reach of the secretary of the treasury, have been taken to enable him to judge whether the public deposits in this institution may be regarded as entirely safe; but as his limited power may prove inadequate to this object, I recommend the subject to the attention of congress, under the firm belief that it is worthy of their serious investigation. An inquiry into the transactions of the institution, embracing the branches as well as the principal bank, seems called for by the credit which is given throughout the country to many serious charges impeaching its character, and which, if true, may justly excite the apprehension, that it is no longer a safe depository of the money of the people."

The "measure" taken by secretary M'Lane to ascertain the security of

the public money, was the appointment of Henry Toland to make the investigation. Mr. T. reported to the secretary the 4th of December, the day of the date of the message, that the liabilities of the bank amounted to \$37,296,950; and the fund to meet them, \$79,593,870; showing an excess of \$42,296,920. As all its liabilities must be first paid in case of insolvency or dissolution, he considered the security of the public money, unquestionable. Nor was there any doubt of the solvency of the bank.

The committee of ways and means also, to whom were referred the transactions of the bank, in relation to the payment of the public debt, and the inquiry into the present pecuniary and financial state and management of the institution, made a report through Mr. Verplanck, chairman, at a later period of the session, showing the resources of the bank to be upwards of \$43,000,000 beyond its liabilities, and concluding with a resolution, "That the government deposits, may, in the opinion of the house, be safely continued in the bank of the United States."

The resolution was opposed by Mr. Polk, who thought it unnecessary to sustain the credit of the bank by adopting this resolution. Whenever the secretary of the treasury deemed the deposits in the bank unsafe, it was made his duty to withdraw them, and to lay his reasons before congress. After replies from Messrs. Ingersoll, of Conn., and M'Duffie, the resolution was adopted: ayes, 109; noes, 46.

The 2d session of the 22d congress was closed the 3d day of March, 1833, by the expiration of its official term. In May, William J. Duane of Pennsylvania, was appointed secretary of the treasury, in the place of Mr. M'Lane, who was transferred to the head of the state department, made vacant by the appointment of Mr. Livingston as minister to France.

The president, having determined on the withdrawal of the deposits from the bank of the United States, appointed Amos Kendal to confer with state banks in relation to future deposits and distribution of the public revenue. On the 18th of September, he read to the cabinet a manifesto, giving his reasons for removing the deposits, among which were, his belief of the dangerous tendency of the bank, and his suspicions that its motive in asking for a recharter was to influence the presidential election. Documents and articles had been printed and circulated, at the expense of the bank, to influence public sentiment. The people had, by electing him, decided against its recharter, and he desired to evince his gratitude by carrying their decision into effect. He assigned, as additional reasons, the necessity of a new arrangement before the dissolution of the bank, the misapplication of public funds, its efforts to deprive the government directors of a full knowledge of its concerns; and an attempt to induce the holders of a portion of the three per cent. stocks,

not to demand payment for one or more years after notice should be given by the treasury department.

The charge against the bank of having expended money for political purposes, was founded upon a disclosure made by four of the government directors. Resolutions had been adopted by the board, authorizing the president of the bank, at his discretion, "to cause to be prepared and circulated such documents and papers as might communicate to the people information in regard to the nature and operations of the bank." About \$80,000 were alleged to have been expended in the years 1831 and 1832, under these resolutions, for the printing of congressional speeches, reports, and other documents, and for the purchase of pamphlets and newspapers, designed to operate on elections, and to secure a renewal of the charter. These directors had proposed the rescinding of these resolutions; but the board, instead of favoring the proposition, adopted a resolution, commending "the wisdom and integrity of the president," and requesting him "to continue his exertions for the promotion of said object."

With respect to the postponement of the payment of the public debt, the president alleged, that in sixteen months ending in May, 1832, the bank had extended its loans more than \$28,000,000, although it knew the government intended to appropriate most of its large deposit during that year in payment of the public debt. Sensible of its inability to pay over the deposits, a secret negotiation was commenced for the holding back of about \$2,700,000 of the three per cent. stock held in Holland. Having been informed by the secretary of his intention to pay off one-half of the three per cents on the 1st of July following, which amounted to about \$6,500,000, the president of the bank came forthwith to Washington, under the pretext of accommodating the importing merchants of New York, (which it had failed to do,) and undertaking to pay the interest itself, procured the consent of the secretary, after consultation with the president, to postpone the payment until the 1st of October. Conscientious that it would then be unable to pay, and that no farther indulgence was to be had of the government, an agent was sent secretly to England to negotiate with the holders of public debt in Europe to hold back their claims for one year, offering them an increased rate of interest. Thus the bank expected to retain the use of \$5,000,000 of money which the government should set apart for the payment of that debt. The president believed, had all these facts been known at the last session of congress, the house of representatives would have come to a different conclusion.

The law declared that the deposits should be made in the bank and its branches, "unless the secretary of the treasury should at any time

otherwise order and direct, in which case he should immediately lay before congress, if in session, and if not, immediately after the commencement of the next session, the reason of such order and direction." This, said the president, gave the secretary *unqualified* power over the deposits; the provision that he should report his reasons being no limitation.

Mr. Duane, having been directed to remove the deposits, and declining to obey the direction, addressed the president a letter on the 21st of September, accompanied by a copy of his commission; a copy of his oath of office, pledging himself to execute his official trust with fidelity; a copy of the section of the law chartering the bank committing to him alone the discretion to discontinue the deposits therein; an extract from a letter of the president of the 26th of June, promising not to interfere with that discretion; and an extract from his exposition to the cabinet of the 18th instant, in which he had stated that he did not expect him (Duane) to do, at his order or dictation, any act which he believed to be illegal, or which his conscience condemned. And he also gave his reasons for refusing to carry the directions into effect; among which were, that the change, without necessity, was a breach of faith; that the measure appeared vindictive and arbitrary; that, if the bank had abused its powers, the judiciary, and in the last resort, the representatives of the people, were able and willing to punish; that the latter had at the last session pronounced the deposits safe; that it was hazardous to place them in the local banks, which were not, on an average, able to pay in specie one dollar in six of their paper in circulation; that it would place in the hands of a secretary, dependent for office on the executive will, a power to favor or punish those banks, and make them political machines; that he believed the efforts to hasten the removal of the deposits, had originated in schemes to promote selfish and factious purposes; and that persons and presses in the confidence and pay of the administration had attempted to intimidate and constrain the secretary to execute an act in direct opposition to his own solemn convictions.

The refusal of secretary Duane was followed, on the 23d, by his removal, and the appointment of Roger B. Taney, then attorney-general, in his place. Benjamin F. Butler, of New York, was appointed to the office of attorney-general. Mr. Taney, concurring with the president in his views on the subject of the removal of the deposits, directed their removal to the state banks selected as the fiscal agents of the government.

This act was the cause of an unusual excitement, and of general discussion. That it would be strongly reprehended by the opponents of the administration, who were generally friendly to the bank, was to have been expected. But the dissatisfaction was not confined to that party

Many of the president's friends concurred in condemning the act, not merely as inexpedient and unnecessary, but as an arbitrary exercise of power; others expressed their disapproval in more moderate terms. Of the former class was a writer in a Charleston paper, who, in relation to the conduct of the president, observed: "He has usurped to himself the right of disposing and removing, as he pleases, the revenues of the country, and thus virtually of establishing banks, without even the consent of congress, or of any other branch of the federal government, to the whole of whose branches combined this competency has been so frequently denied, not only by himself, but by many of our most able and illustrious statesmen from the time of the immortal Jefferson." Of the latter class was Mr. Ritchie, the well known editor of the Richmond Enquirer, who said: "If these (the president's) views were not conclusive upon the mind of the secretary, it appears to us that the president ought to have been content with doing his duty, and leaving the responsibility where the law had left it, in the hands of the secretary. The president might have, in the mean time, obtained information as to the best mode of depositing the public money in the state banks. For this cause alone he should not have removed the secretary, and appointed a substitute. * * * We doubted the policy of the measure in relation to the bank as well as to the public. We also entertain doubts about the power of the president to control the administration of the treasury department in this behalf."

The directors of the bank having appointed a committee to whom were referred the president's paper read to the cabinet on the 18th of September, and that of the government directors, to which allusion has just been made, this committee made their report to a meeting of the board of directors on the 3d of December, which was adopted, 12 to 3. The report is very long and elaborate, and designed as a full vindication of their course and a refutation of the charges brought against it by its opponents.

It commences with an allusion to some of the efforts made in the summer of 1829, to effect the removal of Mr. Mason and the public funds from the branch at Portsmouth, with the view to satisfy Mr. Isaac Hill, who requested a change, because "the friends of Gen. Jackson had but too much reason to complain of the management of the branch at Portsmouth;" manifesting thus early "a combined effort to render the institution subservient to party purposes." Hence it became necessary to come to some immediate and distinct understanding of its rights and duties. Extracts from the correspondence between Mr. Biddle and the treasury department are given, in which he maintained, that the management of the bank was committed to twenty-five directors, who

were responsible to congress alone; and no executive officer from the president down had authority to interfere in it. "These extracts," the report said, "revealed the whole secret of the hostility to the bank of those who, finding it impossible to bend it to their purposes, had resolved to break it."

The president had said, that "the money was to be deposited in the bank during the continuance of its charter, unless the secretary of the treasury should otherwise direct;" and, "unless the secretary first acted, congress had no power over the subject." He had declared that "the power of the secretary over the deposits was unqualified," and that he did not "require that any member of the cabinet should at his request, order or dictation, perform any act which he believed unlawful, or his conscience condemned;" yet the moment the secretary refused to do what his conscience condemned, he was dismissed from office, and denounced in the official gazette as a "refractory subordinate."

The report said, the paper read to the cabinet not having brought a majority of its members into his views, the subject was postponed, and in the mean time this document was put into the newspapers, as was believed, for two reasons: the first was to influence the members of the cabinet by bringing to bear upon their immediate decision the first public impression excited by that document; and secondly, to affect the approaching elections in Pennsylvania, Maryland, and New Jersey; as was indicated by the triumphant exultation of the *Globe* at the result of the elections in these states, and by its ascribing the same in part to the expositions of the corruptions of the bank, read by the president to the cabinet.

The directors pronounced the removal "a violation of the rights of the bank and of the laws of the country." The bank had paid a bonus of \$1,500,000, and had agreed to render other services, for the use of the government deposits; and they could not be taken out but for reasons which the secretary must lay before congress. The purpose of giving this power of removal was obviously to prevent loss to the revenue; and this seemed to have been so considered by the president himself, when, in his message, he suggested the inquiry into the *safety* of the public moneys. But even if there were other reasons for their removal, the secretary alone had the power to remove them. They also adverted to the acts establishing the several departments, from which it appeared, that the secretaries of state, war, and the navy, were to execute the orders of the president, and make their reports to him, and the secretary of the treasury was to report and give information *directly to congress*. In the charter of the bank, there was not a single power given to the president over its administration, except in the provision author-

izing congress or the president to order a writ of *scire facias*, requiring the corporation to show cause why the charter should not be declared void.

The directors say: "The main purpose of the president's manifesto appears to be, to prove that the bank was unfriendly to his election; and he endeavors to trace this opposition to him and his measures:

"1st. In the application to congress for a renewal of the charter;

"2d. In the extension of the loans of the bank in 1831 and 1832;

"3d. In the claim for damages on the French bill;

"4th. In the circulation of documents vindicating the bank from the imputations he had cast upon it."

In answering the first of these assertions, the report refers to the fact, that the president did not think it too early to agitate the question of rechartering the bank more than six years before its charter was to expire; and after having called the attention of congress to the subject in three successive annual messages, the bank, having asked for a renewal of its charter only four years before its expiration, was charged with the design, in this early application, to influence the election.

In regard to the extension of loans, designed, as the president believed, "to bring as large a portion of the people as possible under its power and influence," he was in error, both as to the amount and the motives. The sixteen months in which the increase of loans was alleged to have been made, was from January 1, 1831, to May 1, 1832. In the year 1831, the active foreign and interior trade required unusual facilities for its operations. The bank, having received the reimbursement of its loan to government, amounting to \$8,674,681, and having called in its funds in Europe, and employed its credit there, to the amount of \$4,000,000—thus possessing additional means of loaning to the amount of nearly thirteen millions—had increased its loans seventeen millions, making in fact, a mere increase of its investments less than five millions, of which increase the new branch at Natchez, established within that period, alone contributed nearly three millions.

The report says farther: "There are several circumstances which make this misstatement peculiarly improper. He reproaches the bank with this increase, although 'the bank was aware of the intention of the government to use the public deposit as fast as it accrued, in the payment of the public debt.' Now the fact is, that the public deposit was used, as we have just seen, in paying off the public debt owned by the bank itself; so that instead of increasing its loans in such a way as to interfere with the payment of the public debt to others, this very public debt was paid to the bank itself, and furnished the very means of increasing the loans. What makes it still worse is, that this very public debt was in

fact paid to the bank on the solicitation of the treasury itself, before the bank was bound to receive it." In relation to this, the secretary wrote to the bank, September 29th, 1831, saying: "The department fully appreciates the disposition which the board of directors have manifested by this arrangement, to coöperate in the accomplishment of its desire for the discharge of the public debt as early as the means of the treasury will permit."

The points of comparison, too, were said to be fallacious. It was improper to compare May, and January. The southern crop, with all its business, enlarged the spring operations of the bank. By comparing January with January, or May with May, the increase would be found comparatively small.

In regard to the alleged inability of the bank to meet the demands of the government, and the necessity of obtaining a postponement, the directors said, the truth was, the *government* wished to make the postponement, but could not without the aid of the bank. Mr. M'Duffie and Mr. Cambreleng, members of the committee of investigation at Philadelphia, wrote letters to the secretary of the treasury, dissuading the government from making the payment. But the commissioners of the sinking fund having no authority to postpone the payment, as they would be obliged to pay the quarter's interest during the three months' delay, the president of the bank agreed to pay the interest, as the money would remain in the hands of the bank. The secretary had himself decided on the postponement, after he had seen the recommendation of M'Duffie and Cambreleng.

"Much stress," they said, "was laid on the visit of the president of the bank to Washington while the committee of investigation were in Philadelphia. The truth was, the letter of the acting secretary was received so immediately before the period fixed for issuing the notice of payment, that, if any thing were to be done at all, it was to be done only by personal communication with the secretary, as there was no time for correspondence. The committee were aware of his going, and two of its members wrote letters to promote his object. Besides, his leaving the committee in full possession of the bank and all its papers, was the surest mark of his entire confidence that there was nothing in the concerns of the bank which they might not examine at leisure during his absence, and was the best proof of his confidence in them as well as himself. The whole subject was before the committee of investigation of 1832; and that committee acknowledged, as would be seen from their report, that this postponement was not the work of the bank."

Another evidence adduced of the bank's opposition to him, was its claim for damages from the non-payment of the bill drawn by our gov-

ernment on that of France for about \$900,000, being the first instalment of the French indemnity, and which the bank had purchased. The purchase money was left in the use of the bank, being simply added to the treasury deposit; and yet the bank demanded fifteen per cent. as damages, when no damage beyond a trifling expense had been sustained. Such a fiscal agent of the government was not worthy of further trust. To this the directors reply, that the bank, in this operation, was not the fiscal agent of the government. The bank did not wish to purchase the bill at all, but proposed to collect it, paying the money only after it had been received by its agents in France. It was not true that the money was left in the use of the bank, and simply added to the treasury deposit. The sum was passed to the credit of the treasurer, and the proceeds of this identical bill had been used by the government for paying its ordinary expenses. And when the bill was protested in Paris, the agents of the bank there came forward and paid it: it had thus been paid twice over; so that the disbursements by the bank on account of the bill had actually been \$1,800,000. It had called on the government for the principal and damages; and the government was bound on the principles of common honesty to pay the damages. It had been the uniform practice of the government itself, when it had purchased bills from private citizens which had been returned protested, to enforce its claim for damages.

All the allegations of the president against the bank were separately considered, and explained or denied. There had been no studied exclusion of government directors from committees. Nor had there been any "unusual remodeling" of committees. Nor was it true that "the president of the bank, by his single will, originated and executed many of the most important measures," &c.

The expenditures during the years 1831 and 1832, under authority of certain resolutions, were not \$30,000; they were exactly \$48,278 90, as explained in the report.

It was not true, as charged, "that publications had been prepared and circulated, containing the grossest invectives against the officers of the government;" or that the president of the bank had unlimited discretion to expend its funds," in the manner alleged, "to operate on elections and secure a renewal of its charter." The power actually given which had been exercised, and would continue to be exercised, was for the defense of the bank against the calumnies with which, for four years, the institution had been pursued.

The report of the directors also reviews the report of the four "government directors;" but we may not extend this reply.

At the commencement of the next session of congress in December

1833, secretary Taney made a long report to congress, giving his reasons for removing the deposits. His reasons were founded mainly upon the statements and allegations of the president and government directors, as given in preceding pages.

CHAPTER XLIX.

CONTINUATION OF THE BANK AND DEPOSIT QUESTION.—CLAY'S RESOLUTIONS, AND THE PRESIDENT'S PROTEST.—POST-OFFICE INVESTIGATION.

THE removal of the deposits took place the 1st of October, 1833 ; or, strictly speaking, the public moneys were no longer deposited in the bank of the United States ; those remaining therein, being only drawn out as they were wanted by the government. The loans of the bank were curtailed ; and a severe money pressure soon pervaded the country. Business of most kinds was greatly depressed. Bills of state banks depreciated in value on account of the demand for money ; and banks were compelled to reduce their discounts. Public meetings were held in many places, and memorials to congress were prepared, praying for a return of the deposits to the bank of the United States. The memorial of the Philadelphia chamber of commerce, in enumerating the effects of this measure, mentioned the decline in the price of public stocks from 10 to 30 per cent. ; the depression of the foreign and domestic exchanges ; the fall in value of all the principal articles of domestic produce ; the impossibility of borrowing on mortgage as formerly, even at the highest legal rates of interest ; the ruinous discount on good mercantile paper, which varied from 12 to 18 per cent. ; the difficulty of obtaining cash advances on produce or merchandise ; the discharge of laborers, and the suspension of mechanical and manufacturing business ; the decline in the value of real estate, &c.

While the friends of the bank regarded this state of things as a natural and necessary consequence of the removal of the deposits, its opponents considered the scarcity of money as only artificial, and attributed the pressure to the panic produced by the bank and its friends for political purposes, or with a view to the renewal of its charter. Its discounts, they said, had been unnecessarily reduced, with a design to embarrass the state banks, which had been compelled to contract their issues.

At no former stage of the bank controversy was there so intense an excitement on this question. This act of the president alienated many

of his former supporters. Meetings in many places were called, irrespective of party, and numerous attended by the friends of the administration; and resolutions unanimously adopted, condemning the removal of the deposits. Similar resolutions were also passed by the legislatures of several of the states. Those adopted by the Virginia house of delegates, while they reiterated the opinion of the general assembly against the power of congress to establish a bank, pronounced the act of the president in exerting a control over the federal revenue, by causing its removal, on his own responsibility, from the bank, where it had been deposited under the authority of congress, "an unauthorized assumption and dangerous exercise of executive power;" and instructed their senators, and requested their representatives, in congress, to vindicate the constitution, and redress the evils thus occasioned. The legislatures of New York, New Jersey, Ohio and Tennessee, on the other hand passed resolutions approving the course of the president.

The reality of the scarcity of money was a fact too palpable to be disputed; the great point in controversy was the *cause*. The aggregate loans of the bank, on the 1st of January, 1833, were \$61,695,613, when it had in deposit, \$20,271,221. January 1st, 1834, three months after the deposits were removed, the amount of loans was \$54,911,461, and of deposits, \$10,965,375; showing the reduction of loans to have been \$2,521,393 less than the reduction of deposits, during the year.

One of the reasons alleged for the curtailment of its operations, was the apprehension of an attempt, on the part of the government, to embarrass it. Mr. Kendall, the government agent, in a letter to a New York editor, a few days after the removal of the deposits, spoke of the effects of a sudden withdrawal of the public moneys, (then nearly ten millions,) from the bank, and added: "Yes, sir, this boasting giant is but a reptile beneath the feet of the secretary of the treasury, which he can crush at will. It exists by his forbearance, and will, for the next forty days; and great forbearance will it require to save it from destruction."

A few weeks after, the bank was surprised by the presentation of a number of large drafts, one of \$100,000 at the branch in Baltimore, and two others, one of \$100,000, and another of \$500,000, at the bank in Philadelphia, all of which were paid. Three others, of \$500,000 each, had been drawn upon the branch in New York. These drafts were all in favor of the state banks in these places selected to receive the deposits. It had been the uniform practice of the treasury to transmit to the bank a weekly statement of drafts to be made upon it; but these large sums were drawn for without the usual previous notice. The belief that the unexpected demand of these secret drafts was designed to embarrass the

bank, was strengthened by certain articles in the official paper, the *Globe*, in one of which, alluding to the "runs upon Mr. Biddle's bank," the editor said: "In more ways than one can the people make their power manifest; and the trepidation displayed in the bank hive when the people, in a portion of Kentucky, by a spontaneous movement, began last year to cash its paper, has taught us how to make war with effect, whenever the conduct of the bank shall make it necessary or expedient."

The 23d congress met on the 3d of December, 1833; and some hopes were entertained that measures would be adopted to mitigate the distress which pervaded the whole union, and affected almost every branch of business. During the winter and spring of 1834, many banks were compelled to stop payment. A large number of memorials were sent in to congress, praying for a restoration of the deposits to the bank of the United States. Numerous remonstrances also were presented against their return to that institution. The state of parties in congress at this time was such as to forbid the adoption of the measure prayed for, or of any other which was designed to afford relief.

In the senate, Mr. Calhoun and his friends now acting with the opposition, the administration party was in the minority. In the house, parties were subdivided into the Jackson party proper; the Jackson Van Buren party; the Jackson anti-Van Buren party; the anti-Jackson party; the nullifying anti-Jackson party; and the anti-masonic and anti-Jackson party. The three first named generally acting together, gave the administration a considerable majority, as appeared from the vote in the choice of speaker; Andrew Stevenson, of Virginia, being reëlected by a vote of 142 to 66, and 9 blanks.

In the senate, the practice which had existed in that body since 1828, of the appointment of committees by the president of the senate, was changed. Their appointment by the senate itself was reëstablished.

The removal of the deposits occupied a large share of the attention of congress at this session. It was brought to their consideration, both by the message of the president, and the report of the secretary of the treasury communicating his reasons for the removal. It was discussed on a great variety of motions, resolutions, calls for information, &c.

In the house, on the motion to refer the secretary's report to the committee of ways and means, Mr. M'Duffie moved to instruct the committee "to report a resolution, providing that the public revenue hereafter collected shall be deposited in the bank of the United States, in compliance with the public faith, pledged by the charter of the said bank." He supported his motion by a long speech, in which he reviewed the conduct of the president and secretary in removing the deposits, alleging that the author of the act was the president, who had

no power over the deposits. He spoke of the distress produced by that measure, and he vindicated the bank from the numerous charges preferred against it by the president and secretary.

He was replied to by Mr. Polk, at great length, in defense of the president, and in reprehending the conduct of the bank. Mr. P. maintained that the president had power over the heads of the departments. Being responsible to the people for the faithful execution of the laws, he must have the power to control the conduct of his assistants, not excepting the secretary of the treasury. It would not be pretended that congress could either appoint or remove that officer; they could reach him only by the tedious process of impeachment. Mr. P. referred to Mr. Madison and his cotemporaries to prove the responsibility of the president for the executive department, and the consequent power of removal. He also referred to the act of secretary Crawford, in 1817, who informed congress that he had made deposits in local banks, to aid them in resuming specie payments, and for other purposes.

Mr. Polk considered the several allegations against the bank of misconduct, and endeavored to show that they were well founded; that there was no necessity for the system of curtailment adopted by the bank. The secretary had stated in his report, and the bank returns corroborated the statement, that from August 1, to October 1, 1833, the bank had curtailed its discounts upwards of \$4,000,000, while its means of discounting had been increased by an increase of deposits. He said the bank had so timed its reduction as to produce a pressure about the time of the meeting of congress, to induce the state banks to appeal to congress for a recharter of the bank of the United States. The mere transfer of the public money could not have produced the pressure; the money was still in the country. Nor must the pressure be charged to the local banks; their curtailments had become necessary to protect themselves from the effect of the excessive reductions by the bank of the United States.

Mr. Polk, in noticing the reasons assigned for the large increase of loans by the bank from Jan. 1, 1831, to May 1, 1832, said, if it had become necessary, in consequence of the unusually large importations, for the bank to extend its business, to enable the merchants to sustain themselves and the credit of the country, it was equally incumbent on the bank to extend its accommodations to the importing merchants in 1833, when the importations exceeded those of 1831, by eight millions. But it was apparent that the course of the bank was governed by political considerations.

Against the statement of the president of the bank, that the post

ponement of the payment of the three per cent. stocks was desired by the government instead of the bank, Mr. P. adduced the testimony of two of the directors, and of Mr. Dickens, chief clerk of the treasury, from whose statements it appears, that "the arrangement was made by the government, at the solicitation of the bank." And he quoted from the report of the committee of ways and means of the preceding session, their opinion "that in the arrangement made by the agent in England for the purchase of the three per cent. stock, and the detention of the certificates, (which measure was afterwards disclaimed by the bank,) the institution exceeded its legitimate authority."

The expenditures for printing were also examined, and evidence was presented to convict the president of the bank of misstatements, and of a corrupt expenditure of money. Mr. P. read extracts from some of the pamphlets paid for by the bank, which, he thought, did not appear to have been designed for the defense of the bank, as had been pretended.

Mr. Binney, of Pennsylvania, replied to Mr. Polk; but on two points only can we present his arguments. The first is, the establishment of the treasury department, which involved the question of the power of the president to control its affairs. The act of 1789 establishing the state department, then called "department of foreign affairs," was entitled, "An act for establishing an *executive* department," &c.; and the secretary was to execute the duties enjoined on and intrusted to him by the president. So the departments of war and the navy were denominated *executive* departments, in the titles of the acts establishing them. But in the act for establishing the treasury department, the denomination of "executive" was omitted, not by accident, but by design, as the word was in the title of the bill when reported by the committee. And what was more material, after enumerating the duties devolved upon him in relation to the finances, the act farther requires him to make report to either branch of the legislature: in all of which, the name of the president was not even mentioned. Hence, so far as the acts of the secretary related to the custody and security of the public moneys, his department was not a presidential department. "To have placed the custody of the public treasury within the executive department, would have been a constitutional incongruity, to say nothing of the mischiefs of placing the power of the sword and the purse in the same hand. It would have marred the harmony and simplicity of the whole scheme of the constitution, by leaving to congress the duty of paying the debts and providing for the common defense and welfare, while the money collected for these objects was not under their control, but in the hands of a different department." Mr. B. did not

adopt the conclusion of Mr. Polk, that because the president had the power of removal, he had the right to direct the secretary of the treasury in the discharge of his duties of every description.

The other point in the speech of Mr. B. which it proposed to present, is his vindication of the bank in diminishing its discounts. It had been said that the ability of the bank to discount had been increased by the receipt of \$4,000,000 of the public moneys in August and September. But the inference was erroneous. The bank not only had debtors, but was herself a debtor for private, as well as public deposits, and for her notes in circulation and balances due other banks; and when she called on her debtors for a part of her demands, these very persons might be her creditors by deposit, or might borrow from such as were, and might call on the bank for what she owed them. And it appeared, that during these two months, the private deposits had actually fallen more than two millions.

Said Mr. Binney: "Although the removal of the deposits did not take place until the 1st of October, the intention to remove them was fully known in July. The agency to negotiate with the state banks was announced in the *Globe* of the 25th of July; and whatever the public might think, it was not for the bank to act in any other faith than that the purpose would be immediately and relentlessly executed. It was the clear duty of the board to prepare itself without a moment's delay. The position of the bank was every where known to the treasury department by the weekly statements. Her widely dispersed branches were to be strengthened wherever they required it. Her circulation was large, and she was in the practice of assisting it by an almost universal payment at all points, without regard to the tenor of the notes. The house may judge of the extent of the accommodation which the bank was in the practice of giving, by the thirty-nine millions of these notes paid out of place in the year 1832. They may know it farther, by the fact, that of these branch notes, \$1,540,000 were paid at the bank in Philadelphia, during the very months of August and September, 1833. This circulation was to be sustained and increased, to be still more facilitated, as it since has been, to keep the people and the bank from feeling the consequences of the measure. All this required that the bank should not sleep upon her post. The least dishonor suffered by that bank, would have produced universal disorder in the country."

In the senate, on the 5th of December, Mr. Clay offered a resolution, requesting the president to inform the senate whether the paper read to the cabinet on the 18th of September, and alleged to have been published by his authority, was genuine or not; and if genuine, to cause a copy of it to be laid before the senate. The resolution was adopted on

the 11th, by a vote of 23 to 18. The call was answered the next day by a message, questioning the constitutional right of the senate to require of him, a coördinate and independent branch of the government, an account of any communication made to the heads of the departments acting as a cabinet council, and adding as follows: "Feeling my responsibility to the American people, I am willing, upon all occasions, to explain the grounds of my conduct; and to give to either branch of the legislature any information in my possession that may be useful in the execution of the appropriate duties confided to them. Knowing the constitutional rights of the senate, I shall be the last man, under any circumstances, to interfere with them. Knowing those of the executive, I shall, at all times, endeavor to maintain them, agreeably to the provisions of the constitution, and the solemn oath I have taken to support and defend it. I am constrained, therefore, by a proper sense of my own self-respect, and by the rights secured by the constitution to the executive branch of the government, to decline a compliance with your request."

On the 26th of December, Mr. Clay offered two resolutions: the first, declaring the dismissal of the late secretary because he would not, contrary to his sense of duty, remove the public moneys, in conformity with the president's opinion, and the appointment of another to do the act, to be an exercise of a power over the treasury not granted to him by the constitution and laws, and dangerous to the liberties of the people. Second, that the reasons assigned by the secretary for the removal, were unsatisfactory and insufficient.

Mr. Clay supported these resolutions in a speech of two days. The theme, as will be readily imagined, was well adapted to elicit one of those "splendid efforts" for which that gentleman was celebrated, and which, how much soever they might come short of convincing, could not fail of charming his auditory. He was several times interrupted by applause from the galleries which occasioned the interference of the vice-president. At the conclusion of the speech, it became necessary to order the galleries cleared to enforce the respect due to the senate.

Mr. Benton replied to Mr. Clay on four successive days, in a speech characteristic of its distinguished author, a large portion of it consisting of documentary and historical extracts to fortify his positions. He concluded his speech with a motion to strike out the second resolution and insert, "That Nicholas Biddle, president of the bank of the United States, and ———, be summoned to appear at the bar of the senate, on the ——— day of ———, then and there to be examined on oath, touching the causes of the late large curtailment of debts due to the bank of the United States, and the manner of conducting the said curtailment."

also to be then and there examined touching the application of the moneys of the bank to electioneering and political objects."

The debate was continued by Messrs. Southard, Calhoun, Ewing Preston, Sprague, Frelinghuysen, and Tyler, in favor of Mr. Clay's resolutions; and by Messrs. Shepley, Rives, Forsyth, Grundy, Wilkins, Hill, Tallmadge and Wright, in opposition. With few exceptions, the speeches were of unusual length. The discussion was protracted until the 28th of March, during a period of more than three months. It was interspersed, however, with debates upon sundry other questions, some of which were incidental to, or growing out of, the principal one, the removal of the deposits. Among these questions were numerous memorials from different parts of the union; resolutions and proceedings of state legislatures; the public distress, &c.

On the 5th of February, Mr. Webster, from the committee of finance, to whom had been referred the secretary's report on the removal of the deposits, and the second of the two resolutions of Mr. Clay, made a report which recommended the adoption of that resolution. At the close of the debate on this resolution, (March 28,) the question was taken upon its adoption, and decided in the affirmative: ayes, 28; noes, 18.

Mr. Clay, then, at the instance of some of his friends, modified his other resolution, so as to read as follows: "Resolved, That the president, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both." The resolution was agreed to: ayes, 26; noes, 20.

The passage of this resolution, which took place on the 28th of March, was followed, on the 15th of April, by a message from the president, *protesting* against this act of the senate. He pronounced the resolution, in substance, an impeachment of the president, contrary to the form prescribed by the constitution. It abstained from averring in which of his proceedings the president had assumed unauthorized power. It was too general and indefinite to be easily repelled, yet sufficiently precise to bring into discredit the conduct and motives of the executive. And if this act of the senate, said the president, "shall be approved and sustained by an intelligent people, then will that great contest with arbitrary power, which had established in statutes, in bills of rights, in sacred charters, and in constitutions of government, the right of every citizen to a notice before trial, to a hearing before conviction, and an impartial tribunal for deciding on the charge, have been waged in vain."

He referred to the debate in the congress of 1789, on the establishment of the department of foreign affairs, in which the motion to strike but the clause declaring the secretary "to be removable by the presi-

dent," was decided in the negative. This debate, he said, covered the whole ground, including the treasury department. He adverted to the fact, that four of the senators who had voted for the resolution, were from states whose legislatures had approved the course of the president and the secretary in relation to the bank, to wit: one from Maine, the two from New Jersey, and one from Ohio.

After having stated the objects and reasons which impelled him to make this communication, he says: "I do hereby SOLEMNLY PROTEST against the aforementioned proceedings of the senate, as unauthorized by the constitution; contrary to its spirit and to several of its express provisions; subversive of that distribution of the powers of government which it has ordained and established; . . . and calculated, by their immediate and collateral effects, by their character and tendency, to concentrate in the hands of a body not directly amenable to the people, a degree of influence and power dangerous to their liberties, and fatal to the constitution of their choice." And after referring to his services in the two wars in which liberty was purchased and defended, to shield him from the imputation upon his private as well as public character, which was contained in this resolution of the senate which must stand forever on their journals, he concludes: "To the end that the resolution of the senate may not be hereafter drawn into precedent, and to the end, also, that my motives and views in the executive proceeding denounced in that resolution may be known to my fellow-citizens, to the world, and to all posterity, I respectfully request that this message and protest may be entered at length on the journals of the senate."

Immediately after the protest was read, Mr. Poindexter rose, as he said, "to enter his solemn protest against the reception of this paper, and to submit a motion that it be not received;" which motion at the conclusion of his remarks, he accordingly made. This was the commencement of a highly interesting and animating, though somewhat acrimonious debate, which continued until the 7th of May. Those who farther participated in the debate were, Messrs. Sprague, Frelinghuysen, Southard, Leigh, Ewing, Bibb, Clay, Calhoun, Preston, and Webster, in favor of the motion of Mr. Poindexter; and Messrs. Benton, King, Kane, Grundy, Wright, and Forsyth, in opposition.

After the debate had proceeded a few days, an explanatory message was received from the president, designed to prevent a misconstruction of his former message into an "intention to deny the power and right of the legislative department to provide by law for the custody, safe-keeping, and disposition of the public money and property of the United States." Among the passages in the first message liable to the construction apprehended by the president, and to which senators had taken

exceptions, with the silent acquiescence on the part of the executive department, were the following :

"The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the executive department, in this and all other governments. * * * The superintendents and keepers of the whole are appointed by the president, and removable at his will. Public money is but a species of public property. * * * No officer can be created by congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the president, and who would not be responsible to him for the faithful performance of his duties. * * * Were the congress to assume, with or without legislative act, the power of appointing officers, independently of the president, to take the charge and custody of the public property contained in the military and naval arsenals, magazines and store-houses, it is believed such an act would be regarded as a palpable usurpation of executive power, subversive of the form, as well as the fundamental principles of our government. But where is the difference of principle, whether public property be in the form of arms, munitions of war, and supplies, in gold and silver, or bank notes?"

Mr. Poindexter moved that this (the last) message also be not received, and gave notice of his intention to move certain resolutions modifying his resolution then under consideration.

It was objected to receiving the protest, that it was extra-official, not coming within the rule prescribed in the constitution regulating intercourse between the president and congress; that it was vindictive and calumnious; that it was an unauthorized executive interference with the legislative action of the senate; that it falsely assumed the declaration of the senate to be a criminal procedure against him; that no such paper had ever been presented to either house of congress; that it was intended as a popular appeal to the people, and to make the senate itself the medium through which to promulgate his unfounded charges against that body.

It was argued on the other hand, that the senate had condemned the president, and would not allow him to be heard in his defense; that he had respectfully requested that his defense might be entered upon the journals of the body that had condemned him; that the resolution of the senate *was* of an impeaching character and foreign to all legislation, as was evident from the fact that it was not a joint resolution requiring the action of the house of representatives. As a precedent for the protest, a case was cited which had occurred under Washington's administration. The senate had rejected a nomination; Gen. Washington felt aggrieved, and, on a subsequent day, sent in the name of another indi-

vidual, with a message complaining of the rejection of the former, and assigning his reasons for having nominated him.

The debate on the resolutions of Mr. Poindexter closed on the 7th of May, when they were adopted: ayes, 27; noes, 16. The resolutions were agreed to in the following form:

"Resolved, That the protest communicated to the senate on 17th instant, (April,) by the president of the United States, asserts powers as belonging to the president, which are inconsistent with the just authority of the two houses of congress, and inconsistent with the constitution of the United States.

"Resolved, That while the senate is, and ever will be, ready to receive from the president all such messages and communications as the constitution and laws, and the usual course of business authorize him to transmit to it; yet it can not recognize any right in him to make a formal protest against votes and proceedings of the senate, declaring such votes and proceedings to be illegal and unconstitutional, and requesting the senate to enter such protest on its journals.

"Resolved, That the aforesaid protest is a breach of the privileges of the senate, and that it be not entered on the journal.

"Resolved, That the president of the United States has no right to send a protest to the senate against any of its proceedings."

The material point in this controversy about the removal of the deposits, was the power claimed by and for the president over the custody of the public moneys; for, although the removal was made by order of the secretary, the "responsibility was assumed" by the president, who acknowledged the act as his own. The right of interference on his part was defended on the ground, first, that the treasury department was an executive department, designed, as were the other departments, to aid the executive in his constitutional duty, "to see that the laws are faithfully executed;" and secondly, that under the power of appointment and removal, possessed by the president, he could displace any executive officer who would not coöperate with him in the execution of the laws.

It was contended, on the other hand, that the power here asserted, gave the president entire control of the treasury—a power never contemplated by the act establishing that department. That act was designed to make the secretary of the treasury, so far as his duties related to the public moneys, directly responsible to congress. Yet the president expressly declares: "Congress can not take out of the hands of the executive department the custody of the public property or money, without an assumption of executive power." Exercising the power of removal and appointment at pleasure, and if necessary, dispensing with the confirmations of the senate to his appointments, by appoint-

ing and reappointing in the recess, as in a certain instance he had done he could evade any provision which congress might make for the custody and disposition of the public money, and the union of the purse and the sword in the hands of the executive would be complete. [Appendix, Note H.]

Several reports and counter-reports, in relation to the bank, and the removal of the deposits, were made during the session. A project for the recharter of the bank for six years, was proposed by Mr. Webster. The question on granting leave to introduce his bill, was, on his own motion, laid on the table, to be called up at a future day, which, however, was not done.

Among the reports above mentioned, were those of the majority and minority of a committee of the house of representatives, appointed to investigate the affairs of the bank of the United States. The objects of this investigation were, to ascertain the cause of the commercial distress complained of in the memorials presented to congress; whether the bank had violated its charter; what corruptions and abuses existed in its management; whether it had used its corporate power or money to control the press or interfere in politics; and whether it had any agency in producing the existing pressure. The committee had power to visit the bank, to inspect its books, to send for persons and papers, and to summon and examine witnesses.

The majority of the committee, in their report, complain of the treatment which they received from the bank directors. Although they had not been utterly denied the means of making the required investigation, their proceedings were so embarrassed, and their privileges so restricted, as to prevent the performance of the duties enjoined on them. They state, at the conclusion of their report:

"Thus, your committee conclude, the just power and authority of the house of representatives have been set at naught, defied, and condemned."

"Thus the charter of the bank has been deliberately violated by refusals of directors to submit their books and papers to the inspection of this committee."

"Thus have the just expectations of the house and their constituents been disappointed, and all means of obtaining the best and most accurate information concerning the operations of a controlling moneyed institution been cut off and denied."

The report concludes with a series of resolutions, asserting the right of congress, by the charter of the bank, to examine the books and proceedings of the bank; declaring the president and directors, by withholding books and papers called for by the committee, to have contemned the

legitimate authority of the house ; and ordering the president and directors of the bank to be arrested and brought to the bar of the house to answer for their contempt of its lawful authority.

Mr. Everett, from the minority, reported, that the power of inquiring into the affairs of the bank extended only to the objects for which it was given, viz., to enable a committee to report "whether the provisions of the charter had been violated or not;" but did not embrace the right to search the bank for objects not made subjects of search by the charter. A general search for any purpose was unreasonable ; and the corporators of the bank, as well as other citizens, had the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." A room in the banking-house had been offered for the accommodation of the committee of investigation. The committee of the directors proposed to exhibit their books in person, and to withdraw whenever the congress committee wished to deliberate without the presence of any other person ; the latter committee insisted on the right to exclude all other persons from the room. In the opinion of the minority, the right of the committee "to inspect the books" did not involve the right of withdrawing the books of the bank from the custody of the directors, and taking them into their own exclusive possession, detaining them as long as they pleased, and carrying them whithersoever they pleased. The committee of investigation having withdrawn from the room in the banking-house, the president and directors were required to submit certain of their books to the inspection of the committee at their room at the North American hotel. The committee of directors declined, for reasons which appeared in their resolutions.

The directors required of the committee of investigation, when they should ask for books and papers, to specify the objects of their inquiry. This ground, assumed by the directors under the circumstances of the case, the minority regarded as a legal right. They expressed the opinion that the directors were disposed to afford any information for which the committee had a right to call, and concluded their report thus : "Firmly believing that they are innocent of the crimes and corruptions with which they have been charged, and that, if guilty, they ought not to be compelled to criminate themselves, the undersigned are clearly of opinion, that the directors of the bank have been guilty of no contempt of the authority of this house, in having respectfully declined to submit their books for inspection, except as required by the charter."

These reports were made the 22d of May. On the 27th, the printing of 30,000 copies of both reports together was ordered. In the debate on printing, Mr. Pinckney, of South Carolina, said he wished the minority report extensively circulated for its sound and correct constitutional

views, although it did not go far enough; he was therefore in favor of printing the largest number. But he particularly wished the largest proposed number of the report of the majority published, that the people might see the monstrous powers arrogated for that house. The citizens of Pennsylvania knew that their meritorious sons, Ingham and Duane, had been ignominiously dismissed from office without cause; but they might not know that it was contemplated to drag fourteen of her distinguished citizens as criminals before that house.

Mr. Bynum, of North Carolina, replied to Mr. Pinckney. He thought his object in denouncing, in advance, the report of the majority, was to prejudice it, and to forestall public opinion.

On the 29th of May, Mr. J. Q. Adams obtained the unanimous consent of the house to submit as a substitute for the resolutions of the majority, three resolutions, declaring, 1st. That the committee of investigation be discharged; 2dly, That no contempt of the lawful authority of the house had been offered by the president and directors of the bank; and 3dly, That the order to arraign them as proposed, would be an unconstitutional, arbitrary, and oppressive abuse of power. These resolutions, also, were ordered printed.

During this session of congress, occurred another collision between the government and the bank, in which the interposition of congress was invoked. A message from the president, under date of February 4, 1834, was sent to both houses, informing them of the refusal, by the bank, to deliver to the order of the executive, certain books, funds, &c., relating to the payment of certain pensioners, under the act of June 7, 1832. He charged upon the bank "the claim to usurp the function of the judicial power, and to prescribe to the executive department the manner in which it shall execute the trust confided to it by law." The occasion of this controversy was the difference of construction, by the parties, of the law above mentioned. The bank insisted that it was the lawfully constituted agent for the payment of pensions, and that it was bound to a performance of the duty, and had no right to make the transfer directed by the war department. Mr. Bidèle, in a letter to the secretary of war, (Mr. Cass,) refers to the several acts of congress devolving upon the bank and its branches the business of paying pensions.

The attorney-general, to whom the president had referred the question, considered the act of 1832, as not properly a *pension law*. It provided for the payment of certain officers and other persons for services in the war of the revolution, *under the direction of the secretary of the treasury*, and at such *places* and *times* as he may direct. The duties devolved upon this officer by this act, were soon after transferred to the secretary of war. The pension office being a bureau of the war department, the

secretary of war had assigned to the pension office, of which the bank was the agent, the business of receiving, examining, and deciding on applications for the benefit of this act, not because the law was, strictly speaking, a *pension law*, but because the whole subject bore so much analogy to the pension system, as to make it proper to commit its general management to the pension office. But having thought proper to discontinue the employment of the bank and its branches so far as related to payments under the act of 1832, the order to this effect had been accordingly issued by virtue of the authority of that law.

The president of the bank considered the error of the government to lie in the construction of the law as to the *places* of payment. The word "places" must be used in its ordinary and common sense meaning. Philadelphia was a place; New York was a place; and in authorizing the secretary to designate a place, it must have been intended that he should point out the general locality of the city or town, and *not* the banking-house, where payment was to be made; that he should arrange the pensioners according to localities, by paying them at the agencies most convenient to their respective residences. Such arrangements had often been authorized before. But the instructions did not direct the *place where*, but the *person by whom*, payment should be made in that place. No authority was given to the secretary to change the agent.

In the senate, the message of the president was referred to the committee on the judiciary, who made a report in accordance with the views of the bank, concluding with a resolution, "That the department of war is not warranted in appointing pension agents in any state or territory where the bank of the United States or one of its branches has been established."

In the house, the committee of ways and means, to whom the message was referred, reported in coincidence with the views of the president and secretary. They also recommended a repeal of the several provisions constituting the bank and its branches pension agents under the invalid acts, and the acts of 1818 and 1820, and reported a bill accordingly.

Early in the session, (December 17, 1833,) the president nominated to the senate, as directors of the bank of the United States, on the part of the government, for the year 1834, James A. Bayard, of Delaware, in the place of Saul Alley, and Peter Wager, Henry D. Gilpin, and John T. Sullivan, of Philadelphia, and Hugh McElderry, of Baltimore, to the same offices. The last four named gentlemen were the government directors who made the report to which allusion has been made, and which animadverted upon the conduct of the board of directors. The nomination of Mr. Bayard was confirmed on the 21st of January, 1834. The question on the nomination of the others was several times post-

poned, until the 27th of February, when it was decided in the negative the votes averaging about 20 to 25.

On the 11th of March, a message was sent to the senate, renominating the same gentlemen. The president disclaimed the right to call in question the reasons of the senate for rejecting any nomination. He thinks proper, however, to communicate his views of the consequences of the act of the senate, if it should not be reconsidered. He then defends the conduct of these directors, for which he conceives that they had been rejected. If, for performing a duty lawfully required of them by the executive, they were to be punished by rejection, it would be useless and cruel to place men of character and honor in that situation. Hence, if the nomination of these men was not confirmed, the bank would hereafter be without government directors, and the people must be deprived of their chief means of protection against its abuses. Mr. Bayard having refused to accept his appointment, there was now no government director.

The message was referred to the committee on finance. A report from the committee, by Mr. Tyler, was made the 1st of May. The report said that the president disclaimed all right to inquire into the reasons of the senate; yet he undertook to infer from circumstances what these reasons must have been, and argued at large against their validity. If he could not inquire into them, he could not with propriety *assume* them, and make them the subject of comment. The committee regretted the intimation that the names of other persons might not be sent to the senate. They could not see why no others should be nominated in this case as well as in other cases of rejection. If the offices should remain unfilled, the fault would not be the fault of the senate.

The message renominating Messrs. Wager, Gilpin, Sullivan, and McElderry was considered, and the question on their appointment was determined in the negative: ayes, 11; noes, 30.

No farther nominations were made during the session.

An investigation was made at this session into the affairs of the post-office department. A report was presented by Mr. Ewing, from the post-office committee, representing the department in a state of embarrassment, its debt being upwards of \$800,000 beyond its resources, and mainly attributable to mal-administration and favoritism in making contracts and extra allowances, of which a number of cases are particularized. Its reports, statements and estimates were declared to be so erroneous and defective, as to be unreliable. The report ends with resolutions declaring not only existing errors and abuses, but defects in the system itself, which needed improvement.

Mr. Grundy, chairman of the committee, in behalf of the minority, made a counter report, which accounted for the insolvency of the depart-

ment, by showing that the deficiency of the yearly income had commenced before the present incumbent came into office, being about \$100,000 on his taking possession of the department. This report stated that the debt of the department beyond its available means, was only about \$300,000; that this was owing to an illusory system which had ever prevailed of accounting for the expenses of the department; and that the postmaster-general, as soon as the cause was disclosed, had applied the corrective. It showed that sundry improvements had been introduced into the department by the present postmaster-general; and it assumed to correct several statements contained in the report of the majority. It also recommended a more perfect organization of the department.

A few days before the close of the session, the first resolution reported by Mr. Ewing, declaring that large sums of money had been borrowed at banks by the postmaster-general to make up deficiencies in the means of the department, without authority of law; and that, as congress alone has power to borrow money on the credit of the United States, all such contracts of loans by the postmaster-general were illegal and void, was unanimously adopted: ayes, 41.

The remaining resolutions were then laid on the table; and the committee on the post-office and post-roads was authorized to continue the investigations into the affairs of the department during the recess: ayes, 33; noes, 10.

A committee for the same purpose was appointed by the house. Very full and voluminous reports were made at the next session—the minority of each committee also reporting. Although these reports were on many points discordant, they all concurred in the general conclusion, that a reform in the management of the department was imperiously demanded. The committee of the house, a majority of whom were friendly to the administration, admitted, that “the finances of the department had been managed without frugality, system, intelligence, or adequate public utility;” that “the practice of granting extra allowances had run into wild excesses;” &c. They say in their concluding paragraph: “The committee, in surveying the wide field of their labors, regret only that their reward had not been discoveries of a more pleasing character. They had hoped that their researches would have brought to light the fruits of an enlightened and well directed labor, instead of proofs of error and neglect. But they have finished the task assigned them with an honest purpose, and to the best of their ability.”

A bill was reported by the senate committee for reforming the administration of the post-office, which passed that body unanimously, and soon after became a law.

CHAPTER L.

CABINET CHANGES.—MISSION TO ENGLAND.—BENTON'S EXPUNGING RESOLUTION.—FRENCH INDEMNITY.—POWER OF REMOVAL.—BRANCH MINTS.

IN June, 1834, Mr. M'Lane resigned the office of secretary of state, and John Forsyth, senator in congress from Georgia, was appointed in his place. Levi Woodbury, secretary of the navy, was appointed secretary of the treasury, in the place of Mr. Taney, whose appointment during the recess, the senate refused to confirm. Mahlon Dickerson late senator in congress from New Jersey, was appointed secretary of the navy. Mr. Butler's previous appointment as attorney-general was confirmed.

Andrew Stevenson, of Virginia, and speaker of the house, was nominated as minister to Great Britain, and rejected by the senate. No nomination to this office had been made since the rejection of Mr. Van Buren, in 1832; and the mission remained vacant until March, 1836, when Mr. Stevenson was again nominated, and the nomination confirmed. During this vacancy, the affairs of the United States with the government of Great Britain, were in the charge of Aaron Vail, who had been secretary of legation under Mr. Van Buren.

The long delay in making a nomination to fill this vacancy, and the rejection of Mr. Stevenson, were the subject of much speculation and remark. It was said that the president had, at the time of Mr. Van Buren's rejection, avowed the intention of sending no successor. The alleged cause of Mr. Stevenson's rejection was the fact that he had for a year had the assurance of the mission. The facts in this case were disclosed by letters of Mr. Livingston, secretary of state, Mr. Ritchie, editor of the *Richmond Enquirer*, and Wm. B. Lewis. The letter of Mr. Livingston to Mr. Stevenson was communicated by the president on the call of the senate. Mr. Livingston's letter to Mr. Stevenson, of March, 1833, requested him "to hold himself in readiness to embark in the course of the summer." And he held this assurance when he suffered himself to be reëlected to congress, and to the office of speaker; and when the bill passed the house, (himself in the chair,) making the appropriation for an outfit of \$9,000, with an annual salary of the same amount. It was presumed, that, if this fact had been known to his constituents, they would not have elected him.

Some senators found an additional objection in the unprecedented

extent to which the practice had been carried of appointing members of congress to office. Thirty-eight—thirteen senators and twenty-five representatives, including Mr. Stevenson—holding, or having within a year held, these offices, had received appointments during the first five years of the administration; a number nearly equal, it was said, to that of similar appointments under all preceding administrations: a practice the President himself had condemned as tending to corruption. [See letter to Tennessee legislature.]

In explanation of this affair, the president, in his message communicating the correspondence, stated, that the appointment had been made upon the contingency of the consent of Great Britain to open a negotiation in London, which was afterward commenced at Washington. What the negotiation was, or whether there was any motive for the appointment in 1834 which did not exist in 1833, the president did not say. In farther explanation of the transaction, the other letters above mentioned were, at the instance of Mr. Stevenson, presented to the senate. The letter of Mr. Ritchie to Mr. Stevenson was written August 15, 1834, after the message of the president with Mr. Livingston's letter had been communicated to the senate. Mr. R. says:

"I well recollect the circumstances to which you refer. When you showed me the note of Mr. Livingston, we had a great deal of conversation about it. Neither of us regarded the notice in the light of an appointment. In fact, it presented itself as a mere contingency; and we considered it extremely doubtful whether or when you would be appointed, or, if at all; for if the British declined a negotiation, it seemed to be the president's intention to make no nomination at all, not even during the ensuing session of congress. But this idea struck me, that he *might* appoint you in case the contingency happened during the recess, and not send you, but Mr. Livingston to France. I suggested that these appointments ought not, and could not be made according to the spirit of the constitution, during the recess of the senate. You promptly and cordially concurred in this view of the subject; and I then determined to write to a friend in Washington, for the purpose of laying this view before the president himself. You approved of my doing so; and, in fact, we agreed perfectly in the course that ought to be taken. We determined to take no notice of Mr. Livingston's letter, to act yourself as if no such letter had been written; that it would be best not to offer to accept the appointment if made in the summer, and to await the action of the senate, &c., &c."

The "friend in Washington" to whom Mr. Ritchie wrote, was William B. Lewis, who, on the 21st of June, 1834, communicated to Mr. Stevenson extracts of two letters received from Mr. Ritchie in 1833, in

which the latter says: "One of the highest powers which attaches to the executive, is that of appointment; over its exercise is accordingly thrown, and wisely thrown, the check of concurrence by the senate. Now, sir, doubts do exist, whether the vacancy in the missions to London and Paris did not originally occur during the recess of the senate. Secondly, whether the vacancy does not still exist; and thirdly, whether it ought now to be filled without a consultation with the senate."

These explanations, however, did not satisfy the opposition. They saw a secret design in holding back the appointment. If he wished to bring the president back to a constitutional practice of appointment, why did he not object at the time to receiving the appointment during the recess? If he did not desire it to be kept back for some special purpose, why did he employ the agency of Mr. Ritchie, through which the promise of the office had been kept alive? And why was the nomination withheld until near the close of the session? It was insinuated that the president had a certain design to accomplish, which required the services of Mr. Stevenson in congress during another session; of which a sufficient explanation was furnished by the cast given to certain important committees, and the dissatisfaction excited in the discharge of the ordinary duties of presiding officer of the house. He had resigned the speaker's chair the last of May. The customary resolution of thanks was not moved until near the close of the session, when it received unusual opposition. It was adopted by 97 ayes to 49 noes.

On the resignation of Mr. Stevenson, John Bell, of Tennessee, was chosen speaker, on the tenth ballot. He received 114 votes; James K. Polk, 78; scattering and blanks, 26. Mr. Bell was one of those members who, though friendly to the administration, was opposed to the claims of Mr. Van Buren for the presidency; and was elected by a union of that branch of the party with the opposition.

The committee on finance, in the senate, who had been instructed, at the preceding session, to investigate the affairs and conduct of the bank of the United States during the recess, made a very voluminous report on the subject, on the 18th of December, 1834. Mr. Webster, the chairman, not having acted with the committee, the report was drawn up by Mr. Tyler. The subjects upon which they reported, were, the alleged violation of the charter of the bank; the safety of the public deposits; the management of the bank; the French bill; intermeddling with politics; rewarding editors; &c., &c. The report, as was generally expected, was in the main favorable to the bank. It conveys, however, some censure for having expended too much in the printing and distribution of speeches and pamphlets. While the committee approved the regulation authorizing the bank to pay for publications "necessary for a

true exposition of its condition, or to defend itself against unjust or injurious accusations," they gave it as their decided opinion, that this expense for printing had for the last few years been unnecessarily increased. The information would have reached the people through the ordinary channels of communication; and the attitude of the bank would have lost nothing in the public estimation by the practice of more reserve.

The committee also disapproved the practice which had grown up under the resolution of March 11, 1831, which authorized the president of the bank, by the circulation of documents and papers, "to communicate to the people information in regard to the nature and operations of the bank." Expenditures had been made under it, resting on the orders of the president, without vouchers or defined purpose.

The necessity or importance of this investigation was much doubted. As a measure of party policy, its expediency was perhaps still more questionable. Whether justly or unjustly, the bank was growing into disfavor; and occasion was taken by its opponents to impute to the authors of this investigation the design of attempting to retrieve the popularity of the institution. Hence the committee became known by the name of the "white-washing committee."

A bill to regulate the deposits in the state banks, had passed the house at the session of 1833-34, a few days before its close. It was taken up in the senate on the last day of the session, and laid on the table. At an early day of the next session, a similar bill was reported in the house by Mr. Polk, which was discussed until the 13th of February; after which no farther action appears from the journal to have been taken upon it.

In the senate, Mr. Calhoun, from a select committee on executive patronage, on the 9th of February, also reported, among other things, a bill to regulate the deposits of the public money, which passed the senate, 28 to 12. All the senators who voted in the negative, except two or three, were political friends of the president. Their opposition to the bill, however, was chiefly owing, it is believed, not to making deposits in the banks, but to the terms and conditions upon which they were to be made. Depositing in these banks had from the beginning been recommended by the president as his favorite measure; from which fact, the selected banks came to be called the "pet banks."

In the discussion of the bill in the house, was suggested the plan of what was afterwards called the "sub-treasury." It was similar to the present established system. It was moved by Mr. Gordon, of Virginia, as an amendment, and proposed the appointment of agents of the treasurer of the United States, to keep and disburse the revenue, giving

bonds for the faithful execution of their office. It proposed also, that the whole revenue from customs, lands, and other sources, should be paid in current coin of the United States. It was treated as a whig or opposition measure, from its having received a majority of its votes from members of that party, and disaffected democrats—most of them, it is believed, the latter. Mr. Gordon had been a Jackson man, and probably was still a supporter of the measures of the administration generally. He was opposed to the United States bank as unconstitutional and dangerous, and had carried his opposition to the extreme. But disapproving of the president's interference with the public revenues, he had, since the removal of the deposits, generally voted on this and kindred questions with the opposition. Opposed to the use of banks altogether, he had at the preceding session offered a similar amendment to the bill then pending. The amendment now offered was rejected: ayes, 32, noes, 161.

It is worthy of note, that the state bank system of deposit, which was adopted by the administration party with almost entire unanimity, was, within two or three years thereafter, abandoned in favor of the sub-treasury scheme, which it had so generally and unqualifiedly condemned; and that the whigs, preferring the state banks to the sub-treasury as a place of deposit, became the advocates of the former system rejected by their opponents.

At the time of the adoption, by the senate, March 28, 1834, of the resolution of Mr. Clay, pronouncing the president's proceedings in relation to the deposits to be in derogation of the constitution and laws, Mr. Benton gave notice of his intention to move, from time to time, that the resolution be expunged from the journal, until it should be done, or until he should cease to be a member of that body. In pursuance of that intention, on the 18th of February, 1835, he moved a resolution, ordering the obnoxious resolution to be expunged, because it was "illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the senate in subversion of the rights of defense which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States."

Mr. Poindexter objected to the reception of the resolution, on the ground that it was out of order. The constitution made it the duty of each house to keep a journal of their proceedings, and the senate had no right to expunge any of those proceedings from its journal.

Mr. Brown, of North Carolina, said, that to pronounce the alteration of the journal unconstitutional, was anticipating a conclusion that could be reached only through an investigation; yet the senator from

Mississippi would arrest the inquiry in its incipient stage. Besides several states—four or five, he believed—had, by their legislatures sent instructions to their senators to vote for expunging the resolution. And would the senate refuse to entertain a proposition in defiance of the action of so many sovereign states?

Mr. Leigh, though opposed to the resolution, was in favor of its reception; and at his request, Mr. Poindexter withdrew his objection.

Mr. Benton went into an exposition of the several reasons enumerated in his resolution, for the expurgation of the record. The conduct of the bank which gave occasion for the removal of the deposits, the removal of Mr. Duane, and kindred topics, were made the subject of remark, and were severally treated in the same manner as they had been on former occasions.

The speech of Mr. Southard in reply, or that part of it which related directly to the main subject under consideration, was also chiefly a reproduction of the arguments before used in condemnation of the course of the president and the defense of the senate. The greater part of his speech is a discussion of the incidental question of the right of instruction. This subject was argued with much ability, and the more fully, perhaps, from his representing a state whose senators were under instructions. [Appendix, Note I.]

On the last day of the session, March 3, Mr. White, of Tennessee, moved to amend the resolution, by striking out the word "expunge," and inserting "rescind, reverse, and to make null and void." He said he could not vote to obliterate and deface the journal; and he wished the resolution so framed as to express his feelings on the subject.

Mr. Benton considered the word "expunge" strictly parliamentary. He did not wish to obliterate the journal, but to use words which would express that the resolution ought never to have been put there. The word "rescind" was not strong enough; it admitted the lawfulness of the act at the time it was done. Every senator might vote to rescind the resolution without altering his opinion.

Mr. White, at the suggestion of Mr. M'Kean, of Pennsylvania, modified his amendment by adopting the words "*repeal and reverse*;" and then proceeded to give additional reasons in favor of his amendment. After a discussion of considerable length, Mr. King, of Alabama, moved to amend that part of the resolution proposed to be stricken out, by first striking out the words, "ordered to be expunged from the journals," which motion was carried: ayes, 39; noes, 7.

Mr. Webster then congratulated the senate on the failure of the attempt to deface its journal, and moved that the resolution be laid upon the table, which was done without farther debate: ayes, 27; noes, 20

A claim for indemnity for spoliation of the property of American citizens by France prior to the year 1800, was presented at the session of 1834-35. The pretension of the claimants was, that, by the treaty of 1800, the United States, in order to obtain from France a discharge from liabilities incurred by a non-fulfillment of the stipulations of the treaties of 1778, had surrendered to the French government these claims of our citizens, and had thereby become justly liable for their payment. The bill proposed to pay to the claimants \$5,000,000.

The question was ably argued in the senate, on both sides. Mr. Webster, the author of the bill, was its leading advocate; and Mr. Wright its most prominent opponent. Their speeches were not only powerful in argument, but highly valuable for the historical facts which they contained in respect to the relations between the two countries. The speech of Mr. Wright, especially, gives a minute and full history of our affairs with France.

Mr. Tyler, in stating the general ground of opposition to the bill, said, our government had not neglected any efforts to obtain recompense for the claimants. Minister after minister had been sent to France to negotiate on this point. The object had been pursued up to the year 1800, with the utmost assiduity; and the government had thus fulfilled its duties to its citizens. These claims had been pressed on the ground that the United States had, by the treaty of 1800, made provision for the payment, and, for a valid consideration, had discharged France from liability, and assumed these claims. And what was that consideration? It was one upon which no payment could be made, on which no payment could rest. By the treaty of 1778, there were mutual stipulations. One was that France should guaranty the independence of the United States, while the United States should guaranty to France the two West India Islands, Guadaloupe and Martinique.

In the war between Great Britain and France, our obligation to fulfill the treaty remained in full force. Was it expected that we should take a part in that war? He asked if there was not a great anxiety on the part of the United States to get rid of that guaranty. And now, because, by a subsequent treaty, we had got rid of the guaranty, had citizens a right to demand compensation for losses? Such a conclusion was in opposition to every authority which could be brought forward.

The bill was supported by Messrs. Webster, Preston, Shepley, Robbins, and Prentiss; and opposed by Messrs. Tyler, Benton, Hill, Wright, King, of Georgia, and Bibb. It passed the senate on the 28th of January, 25 to 21. In the house, the committee to whom the bill was referred, reported that there was not time at this session to investigate the subject, and were discharged.

At the session of 1834-35, a committee was appointed in the senate to consider the expediency of reducing the executive patronage, of which Mr. Calhoun was chairman. The other members of the committee were, Messrs. Webster, Southard, King, of Georgia, Bibb and Benton. Messrs. Benton and King were friends of the administration; Mr. Bibb had for some time acted with the opposition.

On the 9th of February, a long report was made, which occupied about an hour and a half in the reading. It concluded with a joint resolution, proposing to amend the constitution so as to provide for a distribution of the surplus revenues among the states and territories. A bill was reported to regulate the deposits of the public moneys; and another to repeal certain sections of an act of 1820, limiting the term of certain officers. The senate ordered 10,000 copies of the report printed, and the usual number of the report of Mr. Benton and others in 1826.

The report showed the annual public expenditures to have been in 1825, \$11,490,460, and in 1833, to have risen to \$22,713,755, not including payments on account of the public debt. This increase of expenditure was attributed to several causes; among which was the large increase of officers, agents, contractors, &c., who were paid from the treasury. Their number was stated at upwards of 60,000, of whom 31,917 were connected with the post-office. The practice of removing faithful and well qualified persons from office to make place for those who were of the party in power—a practice of recent date—was adverted to and reprehended. Such cases, though they had occurred under former administrations, had been comparatively rare.

Increased power had also been acquired by the executive in the control recently assumed over the public funds; and facts were stated to show the extent of patronage exercised through this power of controlling the deposits. The average amount of deposits was about \$10,000,000, and the estimated value of their use to the banks was about four per cent.; making \$400,000 per annum. This immense gain to these influential monopolies depended upon the will and pleasure of the executive, and gave him a control over them. Anticipating, during the existence of the compromise tariff acts, an annual surplus of revenue of \$9,000,000, and protesting against its accumulating in the banks in which it was deposited, the committee proposed an annual distribution of the surplus, until the year 1842, when the compromise act would expire.

The report was warmly opposed by Mr. Benton. He concurred with the general purport and object of the report, as to the augmentation of money expended, and of men employed and fed by the government, and the necessity of retrenchment. But the objects of expenditure which were of questionable propriety, had their origin in preceding administra-

tions, and some of them in the administration of Mr. Monroe, when the author of the report was a member of it; others under Mr. Adams, while those of real expediency owed their origin to the present administration; among which were the removal of the Indians, and the great acquisition of lands, by the extinction of the Indian title. He pronounced the report fallacious and delusive. Those great additional payments in 1833, were for unusual, extraordinary objects, occurring but once. And he mentioned the Black Hawk war in 1832, the expenses of which were principally paid in 1833; the large sum paid under the pension act of 1832, the provisions of which extended back to 1831; the sum thus accumulated, amounting to three and a half millions. These, with certain other special expenditures which he mentioned, amounted to \$7,000,000.

Mr. B. noticed the several points of the report in detail. He ridiculed the idea of altering the constitution for the period of eight years to get rid of surplus revenue. Nine millions to be distributed annually for eight years! A most dazzling, seductive and fascinating scheme! He had seen a gentleman who looked upon it as establishing a new era in our public affairs, a new test for the formation of parties, operating the political salvation and elevation of all who supported it, and the immediate and utter political damnation of all who opposed it. Mr. B. denied that there would be so large a surplus. And it might be reduced without disturbing the compromise act. The price of public lands might be reduced. But whether this was done or not, the revenue from that source would be diminished: there had been unusual quantities of land sold for three or four years; but these large sales would not continue. There were national objects upon which the surplus revenues might be expended: the fortifying of our coasts, both on the Atlantic and on the lakes; the increase of the navy, &c.

Mr. Leigh said the credit or discredit of originating the proposition to divide the surplus revenue among the states, did not belong to the committee, but to the president himself, who had recommended it in his annual messages of 1829 and 1830; and he read extracts from the message of 1830, containing such recommendation.

The principal debate on executive patronage took place in discussing the bill reported by the committee, proposing to repeal the first and second sections of the act of 1820, and to require the president every four years to lay before congress the names of all defaulting officers and agents; and, in cases of nomination to fill vacancies caused by removal from office, to assign the reasons for removal. The provisions of the bill were the same as those of the bill reported by Mr. Benton in 1826. The principal participators in the debate were Messrs. Calhoun

Ewing, Southard, Webster, White, Clayton, Preston, and Clay, in favor of the bill; and Messrs. Benton, Shepley, Wright, Buchanan, Grundy and Hill, in opposition. Mr. Benton, though opposed to certain parts of the report, as well as certain points discussed in the debate, finally voted for the bill. The vote on its passage was, 31 ayes to 16 noes.

The provisions in the act of 1820 proposed to be repealed, limited the term of certain officers, (receiving and disbursing officers,) to four years. It was proposed by this bill, that, if their accounts were regularly settled, and the money faithfully collected and disbursed, they were to remain in office, unless for other cause their removal should be required.

The debate on this bill was one of much interest; the power of removal by the executive being one of the topics of discussion. This subject was ably argued by Mr. Webster; and as his opinion, or at least the argument by which it is sustained, differs somewhat from any which we have elsewhere given on this controverted question, a sketch of it is presented.

Mr. W. admitted that the power of the president to remove officers at will, was settled by construction, by precedent, by practice, and by statute. But he believed that the original decision, by the first congress, was wrong. The constitution did not expressly confer this power: those who maintain its existence, in the single hands of the president, derived it from the clause which says, "the executive power shall be vested in a president." The power of removal, it was said, was an executive power, and was therefore included. But the question was, What is executive power; and what are its boundaries? He thought it was not the intention of the framers of our written constitution to confer it in the lump. When speaking of executive power, did they mean executive power as known in England, or as in France, or as in Russia? It differed in all these countries. He thought they meant that one magistrate, to be called president, should hold the executive authority; but they meant, further, that he should hold it according to the grants and limitations of the constitution itself. They did not intend a sweeping gift of prerogative, as was evident from their proceeding immediately after using these general words, to enumerate and define specifically the several distinct and particular authorities of the president.

If the power was an executive power, it must be implied from the general words. But the power of appointment was not left to be so implied; why should the power of removal have been so left? Both were closely connected; one was indispensable to the other; why then was one carefully expressed and defined, and not a word said about the other? Nothing was said in the constitution about the power of removal, because it was not a separate and distinct power. It was a part of the power of

appointment, going with it, or resulting from it. The constitution or the laws might separate these powers, or in prescribing the tenure of office, might place the officer beyond the reach of the appointing power. But where officers hold their places at will, that will is necessarily the will of the appointing power, because the exercise of the power of appointment at once displaces such officers, without any previous act of removal. There was no such thing as a distinct official act of removal. Hence it was manifest, that whoever held the power of appointment held also the power of removal. And as it was the president and senate, not the president alone, who had the power of appointment, they must, according to the construction of the constitution, hold the power of removal.

The decision of 1789, he said, had been followed by a strange anomaly, showing that it did not rest on a just principle. The natural connection between the appointing power and the removing power, had always led the president to bring about a removal by the process of a new appointment. But the senate sometimes rejected the new nomination. What then became of the old incumbent? Was he out of office? or was he still in? He had not been turned out by any exercise of the power of appointment, for no appointment had been made. He had not been removed by any distinct and separate act of removal, for no such act had been performed or attempted. Those, therefore, who maintained that the power of removal existed in the president alone were driven to very near absurdity. They were forced to the necessity of holding that the removal had been accomplished by the mere nomination of a successor, so that the removing power was made incident, not to the appointing power, but to a part of it, the nominating power. The nomination, though rendered null and void in its main object by the non-concurrence of the senate, was nevertheless held to be good and valid to bring about that which resulted from an appointment, that is, the removal of the person actually in office. In other words, the nomination produced the consequences of an appointment, or some of them, though it were itself no appointment, and effected no appointment. This appeared to him any thing but sound reasoning and just construction.

Again: a nomination to an office already filled, had sometimes been sent to the senate, and, before it had been acted on, withdrawn. What was the effect of such a nomination? If a mere nomination turned out an incumbent, then he was out, whatever became of the nomination. But the president had acted upon the idea that a nomination made, and afterwards withdrawn, did not remove the incumbent. Even this was not the end of the inconsistencies to which the prevailing doctrine had led. Nominations to offices already filled had been before the senate for months, the incumbents continuing to discharge their official duties

until their successors had been confirmed, and received their commissions. So that, if the nomination were confirmed, the nomination itself made no removal. The removal, then, waited to be brought about by the appointment; but if the nomination should be rejected, then the nomination itself, it was contended, had effected the removal. Who could defend opinions which led to such results?

We subjoin the substance of some of the remarks of Mr. White, of Tennessee, on the practice of removing from office on the ground of party differences, or, as it is sometimes expressed, of "punishing men for their political opinions." Mr. White was a friend and supporter of the administration, and was one of the committee, who, in 1826, reported the bill similar to the one now under consideration, and entitled, "A bill to secure in office the faithful collectors and disbursers of the revenue, and to displace defaulters." That bill, like the present, contained the provision for the repeal of the first and second sections of the act of 1820. These sections had been intended to insure fidelity in accounting officers, by making them periodically accountable.

But in 1826, the committee believed, said Mr. White, that in the struggles for place and power between parties, evils not foreseen were apprehended. All these officers going out at the end of every four years, and being entirely dependent on the will of the president for the renewal of their commissions, might induce them to look more to their own situation than to the public welfare, and to conform their opinions to the wishes of the president. If he was a candidate for reelection himself, they would be likely to vote for him; or, if one of his friends was the candidate, they would vote for him, although they might believe the public interest would be most promoted by the election of his opponent. It was no answer to this argument to say it cast reproach upon these officers to suppose their opinions would be thus surrendered. Was it, he asked, a reproach to say that they were men, and must have the means of living? When a man obtained one of these offices, he and his family became dependent on the quarter's salary for food and clothing. To be deprived of the office, was to be deprived of his present means of obtaining an honest livelihood. Under such circumstances, it was likely he would not give his judgment fair play, but would conform his opinion to that of the man who had his all in his power; or, if he had formed an unbiased opinion of the merits of opposing candidates, he might not have the fortitude to express it, either in his conversation or by his vote. The probability was, that he would soon lose that manly independence so essential to the preservation of a free government.

But this influence extended, he said, to all the family connections of this vast array of officers—an influence increased by the fact of his

being a public officer, being presumed to be a better judge, in that situation, of the fitness of a presidential candidate, than if he were a private man. Hence, in 1826, he, as a member of the committee, came to the conclusion that it was dangerous to leave so vast a power in the hands of the executive; and through their chairman, (Mr. Benton) expressed that opinion to the world. The change of administration had not changed his views. His opinions were not controlled by party considerations.

Under the laws as they then were, office-hunting would become a science. Men would come to Washington, to get one set turned out and another put in by misrepresentations and stratagem. This practice the proposed law would discourage. It would also check the thirst for office; because, if a man was removed, his fault, whether incapacity, dishonesty, or intemperance, would be exposed. And if a man should be injured, he would know how and by whom, and he could vindicate his character, not by a controversy with the president, but against him by whose falsehood the president had been misled. It would also secure honest officers with honest political opinions. No president would remove an officer for a mere difference in politics; when he knew this reason was to be put on record, and to remain through all time.

We very much mistake if these sentiments do not meet with a cordial response in every intelligent, unprejudiced mind. The practice of dispensing rewards and punishments according to services rendered or refused to the successful candidate for the executive chair, naturally tends to destroy the independence of those who seek to secure a participation in the patronage which it has to bestow. If a man depends for his bread upon his political opinions, there is no assurance that these opinions will be honestly and fearlessly expressed. And in proportion as the elective franchise is corrupted, will the tenure of our liberties be impaired.

An act was passed at this session establishing three branches of the mint: one at New Orleans for coining gold and silver; one at Charlotte, in North Carolina, and one at Dahlonega, in Georgia. On the question of the passage of the bill for creating these mints, Mr. Hill spoke in opposition to it. If he believed it would be the means of displacing a paper circulation by one of specie, he would consent to some expense to effect the object. But he believed the quantity of gold to be coined at those places was insufficient to justify the expense necessary to erect these establishments and to keep them in operation. The mint at Philadelphia had been found ample for all the wants of the country. The senator from Missouri had declared the system of mints to be a part of the hard money system and supposed hard money could not be diffused

through the west and south if these mints were not established. He (Mr. H.) also was a friend of a hard money currency; but it should be recollected that banks were the natural enemies of a hard money circulation. Small bank notes would destroy the circulation of hard money. He objected also to the bill, that it would increase the executive patronage to the amount of at least one hundred thousand dollars.

Mr. Benton viewed the question as one of currency. Not less than six hundred banks in the union were employed in coining paper money. It was time that this miserable trash should be utterly proscribed. He wished to see the country return to that species of currency which existed forty-five years ago, when the federal revenues were paid in gold and silver. The gold bill passed at the last session was the first step towards a sound circulating medium—gold and silver. This was a question of paper on one side, and of gold on the other.

The bill was supported farther by Messrs. Calhoun, Waggaman, Brown, of N. C., and King, of Georgia; and opposed by Messrs. Clay, Frelinghuysen, and others. It was passed by ayes, 24, against 19 noes. In the house, ayes, 115; noes, 60.

CHAPTER LI.

FRENCH SPOILIATIONS.—PROSPECT OF WAR WITH FRANCE.—DEBATE ON THE LOST FORTIFICATION BILL.

THE delay of the French government in making provision for the debt due the United States under the treaty of 1831, has been already mentioned. The chambers having repeatedly refused to make the necessary appropriations, the president, in his annual message of December, 1834, suggested, as a measure of redress, reprisals upon French commerce, in case the chambers should again adjourn without making provision for the indemnity. The subject was in each house referred to the committee on foreign relations.

On the 6th of January, 1835, the senate committee made a report concluding with a resolution, that it was inexpedient to pass such a law during the present session of the chambers. It was thought most proper to await the issue of the new appeal to that body. The act, though contingent on that issue, would imply a distrust of the French government, and by being construed into a menace, might prevent the passage

of the bill. This opinion was afterward strengthened by that of Mr Livingston, our minister at Paris, who in a despatch to the secretary of state, dated January 11, advised the same course.

On the 7th of February, 1835, in compliance with a request of the house, the president communicated to that body extracts from despatches received from Mr. Livingston at Paris, representing the passage of the bill by the chambers as improbable. The house was surprised by a motion from Mr. Adams, that the message and extracts be referred to the committee on foreign relations, with instructions to report on the subject forthwith. The papers were read, and after an animated debate, were referred without instructions. The singular motion to require, on a subject so important, an *immediate* report, which is usually asked for only on subjects already well understood, induced the belief that it was intended to propose a speedy resort to reprisals, if not a declaration of war itself. He only wished, however, as he afterwards explained his remarks, that the house should avail itself of all the time it had remaining in deliberating on the posture of affairs, as the measure of the president, or some other which the national honor might require, might possibly eventuate in war. The senate had deliberated, and determined to dodge the question: the house might come to a like conclusion.

In the house, on the 27th of February, the committee made a report, and submitted three resolutions: (1.) That it was incompatible with our rights and honor farther to negotiate in relation to the treaty, and that the house would insist on its execution. (2.) Discharging the committee from the farther consideration of the subject. (3.) That contingent preparation ought to be made to meet any emergency growing out of our relations with France. The resolutions were unanimously adopted, after the first had been modified by striking out the first part of it which declared against farther negotiation, leaving that optional with the president. This modification was the result of a motion of Mr. Adams. The debate on this question was not one of a party character. Mr. Adams went farther in support of the measures proposed by the president, than others of the same party, and most of the administration members. It may be inferred from the general tenor of the debate, that if the chambers again adjourned without making the appropriation, some retaliatory measure would thereafter receive the sanction of the house.

On the 25th of February, the president communicated to the senate fresh correspondence between the two governments, which was referred to the committee on foreign relations, who reported, the 3d of March, that nothing in the correspondence gave cause for changing the position which the senate had taken on the subject. It appeared that the king

of France had been greatly irritated by the president's recommendation of reprisals, and by what he conceived an imputation to him of bad faith. He recalled his minister at Washington, and directed the substitution of a chargé d'affaires; and passports were tendered to Mr. Livingston at Paris. Mr. L., however, remained, awaiting the orders of his government. These had been transmitted, and required him to return to the United States; and in the event of the passage of the bill, to leave a chargé d'affaires.

The passage of the bill by the French chambers was supposed to have been retarded by the injudicious publication of extracts from Mr. Rives' correspondence, boasting that he had overmatched the French ministers in the negotiation, and also of certain portions of Mr. Livingston's correspondence, equally offensive, he having suggested that the French government might be influenced by fear. These, and especially the recommendation of the president's message of a law authorizing reprisals, which was regarded as peculiarly offensive to the dignity of France, were made the pretext for delaying justice. In April, the bill was passed, by the strong vote of 289 to 137. Before its passage, however, it received an amendment—intended, probably, as a salvo to their wounded pride—providing, that certain payments should be made only after a satisfactory explanation or apology as to the message of the president should have been received by the French government.

Before leaving Paris, (April 25, 1835,) Mr. Livingston, with the approbation of the president, addressed a letter to the duke de Broglie, with the view of satisfying that government in regard to the required explanation. The form of our government, and the functions of the president were such, that no foreign power had a right to ask for explanations of any communication he might make to congress. Mr. L. said there was no just ground for the charge, that the message impeached the good faith of his majesty's government. As to the measure of redress proposed in the message, it was in accordance with the law and practice of nations; it was necessary, and not objectionable, unless couched in offensive language. Mr. L. cited a case. While France and England were making aggressions upon our commerce, congress passed a law declaring that if these aggressions did not cease, we should hold no intercourse with them. But neither government complained of the act as a threat, or thought it dishonorable to deliberate under its pressure. France was even induced to accept its condition, and repealed her Berlin and Milan decrees.

Although war was not generally apprehended, yet as preparation for such an emergency might become necessary before the next meeting of congress, on the last night of the session, March 3, 1835, and without

any previous intimation, as was alleged, an amendment to the fortification bill was offered in the house, proposing to add \$3,000,000, to be expended under the direction of the president, if he should deem it necessary, for the defense of the country. The amendment was adopted by the house; but it was opposed in the senate as conferring on the president unlimited military power, and rejected, 29 to 16. The house insisted on its amendment; and the senate *adhered* to its disagreement, by a vote of 29 to 17. A committee of conference was appointed. Instead of three millions, there was inserted, \$300,000 for arming the fortifications, and \$500,000 for repairing and equipping the ships of war. The senate awaited the action of the house; and, at eleven o'clock at night, sent a message to that body, which, for some cause not stated, did not act upon it: and, as a consequence, the whole bill was lost; and not a dollar for fortifications of any kind was appropriated!

The loss of this bill, became, at the next session, a subject of exciting debate in both houses; each house, or rather, members of each house, charging it to the neglect or dereliction of the other. In the house of representatives, particularly, the debate was criminating and virulent.

The explanation of Mr. Livingston failed to satisfy the French government; and the bill which had passed the chamber of deputies, afterwards received the sanction of the chamber of peers and the king: and no farther steps were taken for the payment of the indemnity.

The president, in his next annual message, December, 1835, again presented the subject to congress. He vindicated the message of 1834, as giving no just cause of offense; and although he firmly maintained the ground he had taken, his language was of a pacific character. Advices, he said, were daily expected from France, which would be promptly communicated. Accordingly, on the 18th of January, 1836, a message, accompanied by the official correspondence between the two governments, was communicated to congress; from which it appeared, that France still required, as a condition of paying the indemnity, an apology, which the president considered "incompatible with the honor and independence of the United States." And he says: "This pretension (that of interfering in the communications between the different branches of our government) is rendered the more unreasonable by the fact, that the substance of the required explanation has been repeatedly and voluntarily given before it was insisted on as a condition—a condition the more humiliating, because it is demanded as the equivalent of a pecuniary consideration."

In this state of affairs, the president recommended, as a just measure of retaliation, the prohibition of French vessels and French products from our ports, or the adoption of some other proper remedy. The

same message informed congress, that France was preparing a fleet destined for our seas. This, however, would not deter the government from the discharge of its duties.

Mr. Buchanan expressed his entire approbation of the general tone and spirit of the message, and his disappointment at the non-acceptance, by France, of the president's explanation. He hoped, however, that, on the receipt of this message, the French government would reconsider the determination. He had expected a message of a stronger character. But the recommendation was merely the exclusion of French ships and productions from our ports. The wines and silks had, for the four years since the ratification of the treaty, been admitted on the favorable terms stipulated in the treaty. The withdrawal of these advantages was the mildest measure that could have been recommended.

Mr. Calhoun said he had heard the message, not with the agreeable sensations of the senator from Pennsylvania, but with profound regret. He had apprehended no war; but if the recommendations of the president were adopted, it would be almost inevitable. The president's course throughout had been such as tended to produce a conflict between the two nations; and if it should come, our government would be the responsible party. He believed the king was disposed to pay our claims; but the president published to the world Mr. Rives' boastful communication, which caused the chambers to hesitate. Knowing the appropriation depended upon the chamber, and without waiting for its action, the bill was drawn for the first instalment before it could possibly be paid. A protest and much irritation followed. Next came the president's message, asking for authority to issue letters of marque and reprisal if the appropriation were not made—a measure that naturally leads to war. The appropriation was made, but with the condition which caused the present difficulty. The honor of France did not require it; but the ministry were obliged to accept it to save the bill. We should not forget that the acts of our executive had caused its insertion. There was some hope that the last annual message would be favorably received in France. Why then this message recommending preparations and non-intercourse before we had heard how the message had been received? In a war, France could injure us more than we could her. If war came, we must declare it. This was a reason why France should prepare for the worst. Such preparation ought fairly to be considered, not as a menace, but as a precautionary measure induced by our acts.

Mr. Cuthbert, in reply, alluding to the patriotic course of Mr. Calhoun in congress in relation to the war of 1812, said: "The senator from South Carolina says, if we arm, war must follow. We are told we dare not do so. That voice which twenty-four years ago lighted the

fires of confidence and patriotism in the hearts of all who heard him, now humbles itself, and would humble this senate, before a foreign government. Dare not arm! Shame! Shame! that such a sentiment should have been uttered here."

Mr. Buchanan repeated the belief that the message tended to peace and not war. He regretted to hear it said that, if war should come, we would be the authors of it. He deprecated the effect which so potent a voice would produce on the other side of the Atlantic. He was glad that this was not the sentiment of either house, both houses having declared that the treaty must be maintained. It was also at war with the feelings and opinions of the American people. Whilst he believed the message would prove to be the olive branch of peace, it was our duty to prepare for the worst. Whilst a powerful fleet was riding along our southern coast in a menacing attitude, we should not sit here and withhold from the president the means of placing our country in a state of defense.

On the 12th of January, 1836, in the senate, a resolution, offered the day before by Mr. Benton, was taken up. It proposed to apply the surplus revenue and the dividends of stock receivable from the bank of the United States, to the general defense and permanent security of the country; and called on the president for information of the probable amount required for sundry specific objects. Although these objects were of a general and permanent nature, Mr. Benton considered the large French fleet near our coast as furnishing an additional reason for adopting his proposition. The present defenseless condition he charged to the loss of the fortification bill at the last session, for which, he said, the senate was responsible. The three million appropriation had been lost by the opposition of the senate, which had carried with it the whole bill, containing thirteen specific appropriations for works of defense. The senate had also opposed a motion made in pursuance of a report of the military committee to insert \$500,000 for the construction and arming of fortifications. In view of this want of preparation it was, that a French paper had assigned as a reason for the advance of the squadron upon us, that "America would have no force capable of being opposed to it." He did not believe there would be war, but he went for national defense, because that policy was right in itself. We were in a humiliating and defenseless state, and our honor required of us the work of national defense. Above all, it was the only manly way of letting France know that she had committed a mistake in sending this fleet upon us.

Messrs. Leigh, Goldsborough, and Webster, replied to Mr. Benton, each of whom gave a history of the "lost fortification bill," and all con-

curred in the following facts: The bill came to the senate from the house, where such bills originate. It contained no special appropriation indicating an apprehension of a collision with France. It was referred to the committee on finance, and reported with amendments proposing an increase of appropriations. It passed the senate the 24th of February, one whole week before the close of the session, and went to the house, where it remained until the last night of the session without action upon it, and without any notice having been given to the senate that any thing new or important was to be proposed. The senate commenced its evening session at 5 o'clock; and not until after that hour was it returned to the senate, when it came with the three million appropriation, as a contingent fund, without any specification, which the president might expend for defense just when and where he pleased; thus virtually investing him with the power to determine the question of war or peace. The senate disagreed to the amendment, and returned the bill to the other house, which insisted on the amendment, and quickly sent it back. The senate adhered to its disagreement. A committee of conference was agreed to. The senate's members of this committee left the chamber fifteen minutes before eleven, and returned fifteen or twenty minutes after eleven, allowing ample time to act upon the report of the committee of conference, even though the session had terminated at midnight. It was agreed in conference to add, in specific terms, \$500,000 for the naval service, and \$300,000 for fortifications. The senate waited some hours for the bill, and then sent a message reminding the house of the conference: but no answer came. The committee of the house who had the bill in possession, did not report the result of the conference, and there the bill died.

But what was preëminently "the great debate" on the question as to the house in which the fortification bill was lost, occurred in the house on the 22d of January, and on subsequent days. The speakers were Messrs. John Q. Adams and Cambreleng in defense of the house, and Mr. Wise, of Virginia, in opposition. The whole subject was embraced in the discussion.

Mr. Adams maintained that the objects of the three million appropriation were sufficiently specific. It was to be expended for the "*military and naval service, including fortifications, and ordnance, and increase of the navy;*" and only in the event of its becoming necessary for the defense of the country, prior to the next session of congress, an interval of nine months, during which no other provision could have been made against a sudden invasion. The appropriation, he said, had been objected to because it had not been called for by the executive; and when the executive had told them it was in accordance with his wishes,

the objection was, that it was approved by him; and the supporters of the appropriation were charged with man-worship. He had not approved the measures recommended by the president, of issuing letters of marque and reprisal, nor of commercial restriction; neither had the house approved them; but the house and the people had done homage to the *spirit* which had urged the recommendation even of measures which they did not approve.

There were at the last session, said Mr. A., three systems of policy to be pursued with regard to the controversy with France: first, the system of the president; second, that of the senate, to do *nothing*; and third, that of the house, which was different from both the preceding. It had been a subject of ardent deliberation and debate during the last week of the session; and their resolutions were adopted only the day before the last of the session. He gave a history of the action of the house upon the fortification bill, and charged its death to the senatorial vote to *adhere*. He also charged the senate with having manifested bad temper both to the president and to the house of representatives.

Mr. Wise acquitted both houses of the responsibility of defeating the fortification bill of the last session: both were innocent, as he could show by the journal and other testimony; both had desired the passage of the bill. And he then proceeded to show that Mr. Cambreleng was either wholly, or with others of his party, chargeable with the loss of that bill. Mr. C. had after the close of the preceding session, given as a reason for his not reporting to the house the result of the conference between the two houses, that, before the committee were able to report, the hour of twelve had arrived, when, in the opinion of many members, the constitutional term of the house ceased, and they had no right to vote; and also that there had been no quorum present, as appeared from the votes of the house, from the time of the return of the committee till the adjournment, after three o'clock.

Mr. W. referred to the journal of the last session, showing that several votes had been taken after the return of the committee, and after twelve o'clock, when a quorum was present. Among those who voted knowing that hour to have passed, were some who afterwards excused themselves from voting, for the alleged reason that the constitutional term of the house had expired. Various subjects had been acted on by a quorum after twelve o'clock; Mr. Cambreleng participating therein. The want of a quorum, therefore, he said, could not have prevented action on the fortification bill. After it was notorious that the hour was passed, a vote to adjourn was negatived, 103 to 15, Mr. C. voting in the negative, showing that he had no conscientious scruples against deliberating after midnight. Only three less than a quorum voted on

the adjournment; and to his certain knowledge there were more than three present who did not vote; so that Mr. C. could easily have commanded a quorum if he had desired to make his report of the committee of conferees. A report in relation to a national foundry was after this received and acted on; and nine communications from executive departments were laid before the house.

While thus acting, said Mr. W., the message of the senate came, respectfully reminding the house of the report of the committee of conference. Whereupon Mr. Cambreleng, chairman of that committee, stated that he declined to report, on the ground that, from the vote on granting compensation to Robert P. Letcher, which vote was decided at the time the committee returned, it was ascertained that a quorum was not present; and farther, that the constitutional term of the house had expired. The house had been waiting for the report; and this was the first intimation that none was to be made. On the Cumberland road bill, there were 174 votes—53 more than a quorum. Of the members voting, 87 were Van Buren men, and 87 opposition and for White. Soon after, on the Letcher resolution, only 113 voted; 33 Van Buren; opposition and for White, 80. What became of these 54 missing votes? There were more than twenty present who voted, or refused, according to circumstances, or the wishes of party leaders. On one motion to adjourn, of the 87 Van Buren men, only 41 voted; not voting and absent, 54; while of the opposition and the friends of White, 77 voted. On another motion to adjourn, 39 Van Buren men voted, and 72 opposition and for White. This desertion Mr. W. believed to be designed; and he mentioned several facts which strengthened this belief.

Mr. W. also said there was design in withholding a knowledge of the president's wishes in relation to the three million appropriation. A few knew it, and though chairman of the principal committees, they did not make it known even to their committees, much less to the house. It was whispered to a few others, who were told "not to say any thing about it." And said Mr. Wise: "You, Mr. Speaker, you I charge with the guilt of that fact!" He here read a written statement to this effect from Luke Lea, a member from Tennessee, corroborated by Mr. Bunch, of the same state. Mr. Polk, the speaker, was at that time chairman of the committee of ways and means. Two members had hesitated to vote for the three million appropriation unasked for by the president. Mr. P. having been asked by one of them, said the president desired it, "but you need not say any thing about it." The speaker, on being directly interrogated by Mr. Wise, confessed that Mr. Lea's statement was substantially true, but he did not recollect having enjoined secrecy.

The speech of Mr. Wise was very vehement, and of great length, embracing many topics not included in the foregoing sketch

Mr Cambreleng replied, contending that there had been no quorum after the return of the committee; and, in confirmation of his statement, he read from the journal. He had voted several times against adjournment, anxious to get a quorum, but no quorum voted. The business preparatory to adjournment was all that was done after the passage of the Cumberland road bill, for which he had voted before he left the house as a member of the conference committee. Nothing was thereafter done but to hear certain reports, and to send and receive messages to and from the senate and the president. He denied that the refusal to vote was a party measure, or that the want of a quorum had reference to the fortification bill, or the three million appropriation. Mr. C. defended the proposition to place this sum at the disposal of the president, and cited, as precedents, a large number of similar instances under the administrations of Washington, John Adams, Jefferson, and Madison.

It appears from the journals of 1835, that Mr. Lewis, one of the committee, took from Mr. Cambreleng the report with the intention of offering it; but on counting the members, the tellers reported only 113. Several successive votes for adjournment showed the want of a quorum. On a motion to amend a motion to inform the senate that the house was ready to adjourn, so as to make it read, "that the house having no quorum, was ready to adjourn," Mr. Cambreleng said there had not been a quorum for an hour or two. Mr. Reed said the committee of conference had agreed to a report, and as a quorum was undoubtedly present, it ought to be acted upon. The amendment declared what was not the fact: there was a quorum present. Mr. Lewis moved a call of the house. Mr. Cambreleng said: I protest against the right to call the house. What member will answer to his name? ["I will, I will," exclaimed many members.] I am as much in favor (said Mr. C.) of the fortification bill as is the gentleman from New Jersey; but I say the responsibility of its failure rests upon the senate, and not upon us. The bill was defeated by the senate. ["No!" "No!" "not so!" was exclaimed by many voices.] Mr. Barringer said the bill was defeated by an intrigue here in this house. If gentlemen desired names, he would give them. But if this was declined, he would say that there were members who now sat in their seats, and would not answer to their names, who did so in consummation of the intrigue. Mr. B. called for tellers on the motion. Ayes, 56; nays 26—no quorum. The house then adjourned.

On the 8th of February, 1836, the president informed congress that the government of Great Britain had offered its mediation for the adjustment of the dispute between the United States and France; and that he had accepted it; carefully guarding, however, that point in the controversy which, as it involved our honor and independence, did not admit

of compromise. He therefore recommended a suspension of all retaliatory proceedings against France; but again urged preparations for the defense of the seaboard and the protection of our commerce. On the 22d, followed another message, communicating the correspondence between the secretary of state, (Mr. Forsyth,) and the British chargé d'affaires, relative to the mediation, and repeating his recommendation to provide for defense, in case of the commencement of hostilities during the recess of congress.

On the 10th of May, the president announced to congress the payment, by France, of the instalments due under the treaty of indemnity.

CHAPTER 'LII.

THE ANTI-SLAVERY QUESTION.—DISCUSSION IN CONGRESS.—INCENDIARY PUBLICATIONS.—ATHERTON'S RESOLUTIONS.

AMONG the various excitements that have at different times prevailed in the United States, few have been more pervading and intense than that which was consequent upon the early anti-slavery organizations, subsequent to the year 1833, in which the national anti-slavery society was formed. At no time did this excitement reach a higher temperature than in the years 1835 and 1836. Societies were formed in all the northern states; in some of them in almost every county; and in some portions of these states, in nearly every town. Alarm at this movement was soon taken at the south; meetings were held, at which the most denunciatory resolutions against the abolitionists were adopted; and fears were expressed of a speedy dissolution of the union.

This expression of southern sentiment was responded to in the north. Opposition meetings were held in nearly all the large cities and towns attended by citizens of high standing, for the purpose of counteracting the efforts of the abolitionists. In numerous instances this opposition was carried so far as to break up anti-slavery meetings by violence. Indeed, mobs were common occurrences, and were not unfrequently encouraged or participated in by eminent and respectable citizens.

The great agency employed by the abolitionists which excited general alarm at the south, was that of the press. An immense quantity of anti-slavery publications was scattered over the northern states; and the abolitionists were charged with sending them to the south to insti-

gate the slaves to violence and bloodshed. Hence attempts were made to suppress anti-slavery societies and their publications. The "*Emancipator*," published in the city of New York, was indicted by a grand jury in Alabama, and a requisition by Governor Gayle was made upon Governor Marcy of the state of New York, for the surrender of the publisher, R. J. Williams to be tried as an offender against the laws of Alabama concerning slavery. Governor Marcy, however, not being able so easily as Governor Gayle, to *construe* Mr. Williams into a "fugitive from justice," the demand was not complied with.

Another expedient resorted to was the offering of rewards for offenders. A New Orleans paper contained an advertisement from a committee of vigilance of a parish in Louisiana, offering a reward of \$50,000 for the delivery of Arthur Tappan, a conspicuous abolitionist in the city of New York. Rewards also for Lewis Tappan, and other persons, were offered. Nor were offers confined to individuals and voluntary associations. By an enactment of the legislature of the state of Mississippi, a reward of \$5,000 was offered for the arrest and prosecution of any person who should be convicted of having circulated the "*Liberator*," or any other seditious paper, pamphlet, or letter, within that state. In the legislatures of one or two other states, it is believed, similar propositions were made, and carried through one or both branches.

In the proceedings of the meetings held in Boston, Lowell, New York, Albany, Philadelphia, and other places, are found expressions of sympathy for the south, and censures of abolitionists, which would receive few votes in any public meeting at the present day. These anti-abolition meetings were gratifying to the people of the south. The proceedings of the Albany meeting were thus noticed by the *Richmond Enquirer*: "Amid these proceedings, we hail with delight the meeting and resolutions of Albany. They are up to the hub. They are in perfect unison with the rights and sentiments of the south. They are divested of all the metaphysics and abstractions of the resolutions of New York. They are free from all qualifications and equivocation—no idle denunciations of the evils of slavery—no pompous assertions of the right of discussion. But they announce in the most unqualified terms, that it is a southern question, which belongs, under the federal compact exclusively to the south. They denounce all discussions upon it in the other states, which, from their very nature, are calculated to 'inflammé the public mind,' and put in jeopardy the lives and property of their fellow-citizens, as at war with every rule of moral duty, and every suggestion of humanity; and they reprobate the incendiaries who will persist in carrying them on, 'as disloyal to the union.' * * * * They pronounce these vile incendiaries to be 'disturbers of the public

peace.' They assure the south, * * * 'that the great body of the northern people entertain opinions similar to those expressed in these resolutions;' finally, 'that we plight to them our faith to maintain, in practice, so far as lies in our power, what we have thus solemnly declared.'

"We hail this plighted faith to arrest, by 'all constitutional and legal means,' the movements of these incendiaries. We hail these pledges with pleasure; and should it become necessary, we shall call upon them to redeem them in good faith, and to act, and to put down these disturbers of the peace." The *manner* in which it was hoped these pledges would be redeemed, and these disturbers of the peace would be "put down" was by legislative enactments. This is expressly declared in the *Whig*, of the same city:

"The Albany resolutions are far more acceptable than those of New York. They are unexceptionable in their general expressions towards the south, and in their views of the spirit and consequences of abolition; * * * and they omit any specific recognition of the right of agitation. Nothing is wanting, indeed, but that which, *being wanting*, all the rest, we fear, is little more than 'a sounding brass and a tinkling cymbal.' We mean the recognition of the power of the legislature to suppress the fanatics, and the recommendation to do so. This is the substance asked of the north by their brethren of the south; and the recent manifesto of Tappan & Co. makes it plain, that without it, nothing effective can be done; that without it, urgent remonstrances to these madmen to desist, and warm professions towards the south, avail not a whit. Up to the mark the north must come, if it would restore tranquillity and preserve the union."

In the proceedings of the Albany meeting, the Whig could see an object which its neighbor, of opposite politics, appears not to have discovered. It says: "The failure of the Albany meeting to enforce the expediency of legislative enactments, is ominous. There is reason to believe that strong appeals were made to the leaders from various points, perhaps from Richmond itself, to go as far as possible, and to adopt a resolution, according to the south its demand for legislative enactment. Political importance was attached to it from the circumstance that the immediate friends of Mr. Van Buren and his party leaders, were to preside at the meeting, and thus that an intelligent sign might be given the south, that *he* sustained her claim. We infer nothing against Mr. Van Buren himself from the failure; but we do infer this, either that his Albany partisans reject the claim, or fear to encounter public opinion by adopting it. Either way it may be regarded as decisive of the fate of the demand itself, and as conclusive that nothing will be done by the state of New

York to suppress the fanatics *by law*. New York is the lotbed of the sect; and nothing being done there, what may be done elsewhere will avail nothing."

The Philadelphia Inquirer said: "The south has called upon the north for action in relation to Garrison and his co-workers: Philadelphia, at least, has responded to this call in a spirit of the utmost liberality. The resolutions adopted at the town meeting of Monday last not only denounce the recent movements of the abolitionists, . . . but they expressly disclaim any 'right to interfere, directly or indirectly, with the subject of slavery in the southern states,' and aver that any action upon it by the people of the north, would be not only a violation of the constitution, but a presumptuous infraction of the rights of the south; and further, one of them recommends to the legislature of this commonwealth, to enact, at the next session, certain provisions to protect our fellow-citizens of the south from any incendiary movements, within our borders, should any such hereafter be made. Are not these declarations to the point? Do they not cover the whole ground? Do they not go even farther than many of the resolutions passed at public meetings in the south?"

The northern anti-abolitionists received some pretty severe lectures for not putting their professions into practice. Said the Southern Patriot: "Why did not the Albany meeting recommend putting down, by the strong arm of the law, discussions which (it declared,) 'are at war with every moral duty, and every suggestion of humanity?' Surely, that which is declared to be so pernicious as to be at war with every moral duty, and every humane suggestion, can and ought to be made legally *punishable*. It is *works* and not *words* we want."

Despairing of seeing the progress of anti-slavery sentiment arrested by legislation, the south suggested the remedy of non-intercourse and disunion. In the resolutions of a public meeting in South Carolina, it was declared, "that when the southern states are reduced to the alternative of choosing either union without liberty, or disunion with liberty and property, be assured they will not hesitate which to take, and will make the choice promptly, unitedly, and fearlessly." And it was unanimously resolved, "That should the non-slaveholding states omit or refuse, at the ensuing meeting of their respective legislatures, to put a final stop to the proceedings of their abolition societies, against the domestic peace of the south, and effectually prevent any farther interference by them with our slave population, *by efficient penal laws*, it will then become the solemn duty of the whole south, in order to protect themselves and secure their rights and property, against the unconstitutional combination of the non-slaveholding states, and the murderous designs of their abolitionists to withdraw from the union."

In relation to the suspension of commercial intercourse, the Richmond Whig said: "The suggestion of acting upon fanaticism by withholding the profits of southern commerce, from those engaged either actively, or by countenance, in propagating its designs, is obtaining extensive popularity. A general persuasion prevails of its efficacy. It is an argument which will carry more weight than appeals to justice, humanity, and fraternal affection. It is never lost to mankind. Through the purse is the surest road to the understandings of men; especially, so we have been taught to believe, to the understandings of those with whom the south is now contending. Southern commerce is essential to the north. * * * Can the south be blamed for cutting off the resources employed to disturb its tranquillity, and overthrow its institutions? Where is the illiberality? Where is the injustice? That all should suffer where a part only are guilty, is to be deplored but not avoided. When the innocent feel the consequences, they will be stimulated to more active steps for the suppression of the wretches who have wrought so much mischief and engendered so much bad feeling.

"The merchants are well disposed to the experiment; but they say its success depends upon the country, not the cities. Without the coöperation of the country citizens—without they put their shoulders to the wheel, and discourage the custom of buying goods in the north, they can do nothing. They are ready to promise, and to fulfill the promise, that, if the country will buy their goods, they shall have them as cheap and as good as the northern markets now supply. Let none be alarmed by the silly and traitorous clamor put up about the *union*. The articles of union, we presume, do not inhibit the south from caring for its own safety, or promoting its own prosperity."

Application was made to the postmaster-general to interpose his authority to prevent the transmission, by mail, of anti-slavery papers and documents. In answer to a request of a meeting in Petersburg, Virginia, to adopt in his department some regulation to this effect, Mr. Kendall, under date of August 20, 1835, said, it was not in his power, by any lawful regulation, to obviate the evil. Such a power, if any necessity for it existed, ought not to be vested in the head of the executive department. He, however, regarded the transmission, through the mail, of papers "tending to promote discontent, sedition, and servile war, from one state to another, as a violation of the spirit, if not the letter, of the federal compact, which would justify, on the part of the injured states, any measure necessary to effect their exclusion." For the present, the only means of relief was "in responsibilities voluntarily assumed by the postmasters." He hoped congress would, at the next session, put a stop to the evil, and pledged his exertions to promote the adoption of a measure for that purpose.

The postmaster of New York had requested the anti-slavery society to desist from attempting to send their publications into the southern states. They refusing to comply with the request, the postmaster, Samuel L. Gouverneur, detained their papers destined for those states, and addressed Mr. Kendall on the subject, who again disclaims the right to exclude matter from the mails; but he adds: "If I were situated as you are, I would do as you have done. Postmasters may lawfully know in all cases the contents of newspapers, because the law expressly provides that they shall be so put up that they may be readily examined; and if they know those contents to be calculated and designed to produce, and, if delivered, will certainly produce the commission of the most aggravated crimes upon the property and persons of their fellow-citizens, it cannot be doubted that it is their duty to detain them, if not even to hand them over to the civil authorities. * * * If it be justifiable to detain papers passing through the mail, for the purpose of preventing or punishing isolated crimes against individuals, how much more important is it that this responsibility should be assumed to prevent insurrections and save communities! If, in time of war, a postmaster should detect the letter of an enemy or spy passing through the mail, which, if it reached its destination, would expose his country to invasion and her armies to destruction, ought he not to arrest it? Yet, where is his legal power to do so?"

The doctrines of the postmaster-general, advanced in these letters, countenancing the violation of the mails by the deputies, were the subject of much comment. They were regarded in the northern states, by a large portion of the citizens—even such as were opposed to the measures of the abolitionists—as subversive of the liberty of the press.

Conceiving the principles and objects of anti-slavery associations to be misunderstood, the officers of the American anti-slavery society published in its defense the following address "TO THE PUBLIC:"

"In behalf of the American anti-slavery society, we solicit the candid attention of the public to the following declaration of our principles and objects. Were the charges which are brought against us, made only by individuals who are interested in the continuance of slavery, and by such as are influenced solely by unworthy motives, this address would be unnecessary; but there are those who merit and possess our esteem, who would not voluntarily do us injustice, and who have been led by gross misrepresentations to believe that we are pursuing measures at variance, not only with the constitutional rights of the south, but with the precepts of humanity and religion. To such we offer the following explanations and assurances.

"1st. We hold that congress has no more right to abolish slavery in

the southern states, than in the French West India islands. Of course we desire no national legislation on the subject.

"2d. We hold that slavery can only be lawfully abolished by the legislatures of the several states in which it prevails, and that the exercise of any other than moral influence to induce such abolition, is unconstitutional.

"3d. We believe that congress has the same right to abolish slavery in the District of Columbia, that the state governments have within their respective jurisdictions, and that it is their duty to efface so foul a blot from the national escutcheon.

"4th. We believe that American citizens have the right to express and publish their opinions of the constitution, laws, and institutions of any and every state and nation under heaven; and we mean never to surrender the liberty of speech, of the press, or of conscience—blessings we have inherited from our fathers, and which we intend, as far as we are able, to transmit unimpaired to our children.

"5th. We have uniformly deprecated all forcible attempts on the part of the slaves to recover their liberty. And were it in our power to address them, we would exhort them to observe a quiet and peaceful demeanor, and would assure them that no insurrectionary movements on their part would receive from us the slightest aid or countenance.

"6th. We would deplore any servile insurrection, both on account of the calamities which would attend it, and on account of the occasion which it might furnish of increased severity and oppression.

"7th. We are charged with sending incendiary publications to the south. If by the term *incendiary* is meant publications containing arguments and facts to prove slavery to be a moral and political evil, and that duty and policy require its immediate abolition, the charge is true. But if this charge is used to imply publications encouraging insurrection, and designed to excite the slaves to break their fetters, the charge is utterly and unequivocally false. We beg our fellow citizens to notice, that this charge is made without proof, and by many who confess that they have never read our publications, and that those who make it, offer to the public no evidence from our writings in support of it.

"8th. We are accused of sending our publications to the slaves, and it is asserted that their tendency is to excite insurrections. Both the charges are false. These publications are not intended for the slaves, and were they able to read them, they would find in them no encouragement to insurrection.

"9th. We are accused of employing agents in the slave states to distribute our publications. We have never had one such agent. We have sent no packages of our papers to any person in those states for

distribution, except to five respectable resident citizens, at their own request. But we have sent, by mail, single papers addressed to public officers, editors of newspapers, clergymen, and others. If, therefore, our object is to excite the slaves to insurrection, the masters are our agents.

"We believe slavery to be sinful, injurious to this and to every other country in which it prevails; we believe immediate emancipation to be the duty of every slaveholder, and that the immediate abolition of slavery, by those who have the right to abolish it, would be safe and wise. These opinions we have freely expressed, and we certainly have no intention to refrain from expressing them in future, and urging them upon the consciences and hearts of our fellow citizens who hold slaves, or apologize for slavery.

"We believe the education of the poor is required by duty, and by a regard for the permanency of our republican institutions. There are thousands and tens of thousands of our fellow citizens, even in the free states, sunk in abject poverty, and who, on account of their complexion, are virtually kept in ignorance, and whose instruction in certain cases is actually prohibited by law! We are anxious to protect the rights, and to promote the virtue and happiness of the colored portion of our population, and on this account we have been charged with a design to encourage intermarriages between the whites and blacks. This charge has been repeatedly, and is now again denied, while we repeat that the tendency of our sentiments is to put an end to the criminal amalgamation that prevails wherever slavery exists.

"We are accused of acts that tend to a dissolution of the union, and even of wishing to dissolve it. We have never 'calculated the value of the union,' because we believe it to be inestimable; and that the abolition of slavery will remove the chief danger of its dissolution; and one of the many reasons why we cherish and will endeavor to preserve the constitution is, that it restrains congress from making any law abridging the freedom of speech or of the press.

"Such, fellow citizens, are our principles—Are they unworthy of republicans and Christians? Or are they in truth so atrocious, that in order to prevent their diffusion you are yourselves willing to surrender, at the dictation of others, the invaluable privilege of free discussion; the very birthright of Americans? Will you, in order that the abominations of slavery may be concealed from public view, and that the capital of your republic may continue to be, as it now is, under the sanction of congress, the great slave mart of the American continent, consent that the general government, in acknowledged defiance of the constitution and laws, shall appoint throughout the length and breadth

of your land, ten thousand censors of the press, each of whom shall have the right to inspect every document you may commit to the post-office, and to suppress every pamphlet and newspaper, whether religious or political, which in his sovereign pleasure he may adjudge to contain an incendiary article? Surely we need not remind you, that if you submit to such an encroachment on your liberties, the days of our republic are numbered, and that, although abolitionists may be the first, they will not be the last victims offered at the shrine of arbitrary power."

The anti-slavery agitation which was spreading through the union, soon affected the deliberations of congress. Petitions from the free states, praying for the abolition of slavery and the slave trade in the District of Columbia, were daily presented. This movement was deprecated by a large majority of congress. Southern representatives, especially, were highly inflamed. Although the petitioners asked for no legislative interference with slavery in the states, to which it was universally admitted the power of congress did not extend; the exercise of the power within the district and the territories, would, it was feared, give the petitioners a great advantage in the prosecution of their ultimate object, the overthrow of the institution.

The general excitement was much increased by the contrariety of opinion as to the manner of disposing of the petitions. Southern members were opposed to their reception altogether, as praying for an act that was unconstitutional. It was contended that congress had no right thus to interfere with the right of property, without the consent of the owners; and also that such interference would be a violation of good faith with the states of Maryland and Virginia, which, it was to be presumed, would never have ceded the territory to the general government, had such action on the part of congress been anticipated. The agitation of this question in congress, it was farther contended, would disturb the compromises of the constitution, endanger the union, and, if persisted in, destroy, by a servile war, the peace and prosperity of the country. Hence it was urged, that the petitions ought not to be entertained; and that, without giving them a formal reception, they should be laid upon the table, without being referred or printed.

The discussion of the several propositions for the disposal of the abolition petitions in the house, resulted in the adoption, February 8, 1836, of the following resolution of Mr. Pinckney, of South Carolina, which, on motion of Mr. Vinton, of Ohio, had been divided into three parts: "*Resolved*, (1.) That all the memorials which have been offered, or may hereafter be presented to this house, praying for the abolition of slavery in the District of Columbia, and also the resolutions offered by

an honorable member from Maine, (Mr. Jarvis,) with the amendment thereto proposed by an honorable member from Virginia, (Mr. Wise,) and every other paper or proposition that may be submitted in relation to that subject, be referred to a select committee; (2.) With instructions to report, that congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the states of this confederacy; (3.) And that, in the opinion of this house, congress ought not to interfere in any way with slavery in the District of Columbia, because it would be a violation of the public faith, unwise, impolitic, and dangerous to the union."

The first clause of the resolution was adopted by a vote of 174 to 48; the second, 201 to 7. The third was divided; and the first member of the same, which declared that congress ought not to interfere with slavery in the district, was carried, 163 to 47; the remaining part, 129 to 74. Of those who voted in the negative on the last question, all, with a few exceptions, were whigs from the northern states; the administration members generally from these states, in both houses, having joined the south on this question. Mr. Pinckney was severely censured by several southern members for having moved the resolution; because the power of congress over slavery in the states had not been brought in question; and the affirmation of the proposition that congress had no such power, was to admit that it needed affirmation; and also because they were opposed to the discussion of the question. Mr. Wise, on a subsequent occasion, alluding to the mover of the resolution, said: "I hiss him as a deserter from the principles of the south on the slavery question."

On the 18th of May, Mr. Pinckney, from the select committee appointed on his motion, reported three resolutions; the first denying the power of congress over slavery in the states; the second, declaring that congress ought not to interfere with it in the District of Columbia. The third, which was not contemplated by the instructions to the committee, required all petitions and papers relating to the subject, to be at once laid upon the table, without being printed or referred, and without any other action on them. On the 25th of May, the vote was taken on the first resolution, under the pressure of the previous question. Mr. Adams said, if the house would allow him five minutes, he would prove the resolution to be false. Eight members were understood to have voted in the negative: Messrs. Adams, Jackson, and Philips, of Mass., Everett and Slade, of Vt., Clark, Denney, and Potts, of Penn. The second resolution was adopted the next day, 132 to 45; the third, 117 to 68.

In the senate, the principal discussion on the disposal of abolition

petitions was upon one from the society of the "Friends" in the state of Pennsylvania, adopted at the Caln quarterly meeting. It was presented the 11th of January, by Mr. Buchanan, who said he was in favor of giving the memorial a respectful reception; but he wished to put the question at rest. He should therefore move that the memorial be read, and that the prayer of the memorialists be rejected. The question on receiving the petition was, on the 9th of March, decided in the affirmative: ayes, 36; noes, 10; the latter all from southern senators. On the 11th, the whole subject, including the rejection of the petition, was agreed to, 34 to 6. Those who voted in the negative, were, Messrs. Davis and Webster, from Mass., Prentiss, of Vt., Knight, of R. I., and Southard, of N. J.

But the most important action of the senate was upon a bill to prohibit the circulation of abolition publications by mail. The president had in his annual message called the attention of congress to the subject. He said: "I must also invite your attention to the painful excitement produced in the south, by attempts to circulate, through the mails, inflammatory appeals addressed to the passions of the slaves, in prints, and in various sorts of publications, calculated to stimulate them to insurrection, and to produce all the horrors of a servile war." He said it was "fortunate for the country, that the good sense and generous feeling of the people of the non-slaveholding states" were so strong "against the proceedings of the misguided persons who had engaged in these unconstitutional and wicked attempts, as to authorize the hope that these attempts will no longer be persisted in." But if these expressions of the public will should not effect the desirable result, he did "not doubt that the non-slaveholding states would exercise their authority in suppressing this interference with the constitutional rights of the south." And he would respectfully suggest the passing of a law that would "prohibit, under severe penalties, the circulation in the southern states, through the mail, of incendiary publications, intended to instigate the slaves to insurrection."

This part of the message was, on motion of Mr. Calhoun, referred to a select committee, which, in accordance with his wishes, was composed mainly of senators from the slave-holding states. They were, Messrs. Calhoun, King, of Georgia, Mangum, Linn, and Davis; the last alone being from the free states. The report of the committee was made the 4th of February. Notwithstanding four-fifths of its members were southern, only Messrs. Calhoun and Mangum were in favor of the entire report. The accompanying bill prohibited postmasters from knowingly putting into the mail any printed or written paper or pictorial representation relating to slavery addressed to any person in a state in which

their circulation was forbidden; and it prohibited postmasters in such state from delivering such papers to any person not authorized by the laws of the state to receive them. And the postmasters of the offices where such papers were deposited, were required to give notice of the same from time to time; and if the papers were not, within one month, withdrawn by the person depositing them, they were to be burnt or otherwise destroyed. Mr. Linn, though dissenting from parts of the report, approved the bill.

Mr. Calhoun, in his report, reiterated his favorite doctrine of state sovereignty; from which he deduced the inherent right of a state to defend itself against internal dangers; and he denied the right of the general government to assist a state, even in case of domestic violence, except on application of the authorities of the state itself. He said it belonged to the slaveholding states, whose institutions were in danger, and not to congress, as the message supposed, to determine what papers were incendiary; and he asserted the proposition, that each state was under obligation to prevent its citizens from disturbing the peace or endangering the security of other states; and that, in case of being disturbed or endangered, the latter had a right to demand of the former the adoption of measures for their protection. And if it should neglect its duty, the states whose peace was assailed might resort to means to protect themselves, as if they were separate and independent communities.

As motives to suppress by law the efforts of the abolitionists, the report mentioned the danger of their accomplishing their object, the abolition of slavery in the southern states, and the consequent evils which would attend it. It would destroy property to the amount of \$950,000,000, and impoverish an entire section of the union. By destroying the relation between the two races, the improvement of the condition of the colored people, now so rapidly going on, and by which they had been, both physically and intellectually, and in respect to the comforts of life, elevated to a condition enjoyed by the laboring class in few countries, and greatly superior to that of the free people of the same race in the non-slaveholding states, would be arrested; and the two races would be placed in a state of conflict which must end in the expulsion or extirpation of one or the other.

But for the fact that the president's message expressed similar apprehensions of "the horrors of a servile war," and contained a similar suggestion of the interposition of the state governments to suppress the "wicked attempts" of the anti-slavery societies to interfere with southern rights, it would be almost incredible that Mr. Calhoun could have seriously entertained such fears, or claimed for the states such powers

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There was, however, between the message and the report this difference, that the former was silent as to the right of the slave states "to resort to means to protect themselves" against the incendiary associations.

The bill, reported by Mr. Calhoun, sustained by the combined influence of his own report and the executive recommendation, made its way nearly through the senate. Mr. Webster opposed the bill, because it was vague and obscure, in not sufficiently defining the publications to be prohibited. Whether for or against slavery, if they "touched the subject," they would come under the prohibition. Even the constitution might be prohibited. And the deputy-postmaster must decide, and decide correctly, under pain of being removed from office! He must make himself acquainted with the laws of all the states on the subject, and decide on them, however variant they might be with each other. The bill also conflicted with that provision of the constitution which guarantied the freedom of speech and of the press. If a newspaper came to him, he had a property in it; and how could any man take that property and burn it without due form of law? And how could that newspaper be pronounced an unlawful publication, and having no property in it, without a legal trial? He argued against the right to examine into the nature of publications sent to the post-office, and said that the right of an individual in his papers was secured to him in every free country in the world.

Mr. Clay said the papers, while in the post-office or in the mail, did no harm: it was their circulation—their being taken out of the mail, and the use made of them—that constituted the mischief; and the state authorities could apply the remedy. The instant a prohibited paper was handed out, whether to a citizen or a sojourner, he was subject to the law which might compel him to surrender or to burn it. The bill was vague and indefinite, unnecessary and dangerous. It applied to non-slaveholding as well as to slaveholding states—to papers touching slavery, as well for as against it: and a non-slaveholding state might, under this bill, prohibit publications in defense of slavery. But the law would be inoperative: the postmaster was not amenable, unless he delivered the papers *knowing* them to be incendiary; and he had only to plead ignorance to avoid the penalty of the law. Mr. C. wished to know whence congress derived the power to pass this law. The senator from Pennsylvania had asked if the post-office power did not give the right to say what should be carried in the mails. There was no such power as that claimed in the bill. If such doctrine prevailed, the government might designate the persons, or parties, or classes, who should have the exclusive benefit of the mails.

Before the question was taken on the engrossment of the bill, a mo-

tion by Mr. Calhoun to amend it so as prevent the withdrawal of the prohibited papers, was negatived, 15 to 15. An amendment offered by Mr. Grundy, restricting the punishment of deputy-postmasters to removal from office, was agreed to; and the bill was reported to the senate. Mr. Calhoun renewed his motion in senate, and it was again lost, 15 to 15. Mr. Benton, in his late work, says, that, in committee of the whole the vice-president did not vote in the case of a tie. The question being then taken on the engrossment, there was again a tie: 18 to 18. The vice-president having temporarily left the chair, returned, and gave the casting vote in the affirmative. Of the senators from the free states voting in the affirmative, were Messrs. Buchanan, Tallmadge and Wright. Those who voted in the negative from the slave states, were Messrs. Benton, Clay, and Kent, of Maryland.

This casting vote of Mr. Van Buren, and the several votes of Mr. Wright, who voted with Mr. Calhoun on this subject, have been justified by their friends on the ground that Mr. Calhoun, (to use the language of Mr. Benton,) "had made the rejection of the bill a test of alliance with northern abolitionists, and a cause for the secession of the southern states; and if this bill had been rejected by Mr. Van Buren's vote, the whole responsibility of its loss would have been thrown upon him and the north, and the south inflamed against those states and himself—the more so, as Mr. White, of Tennessee, the opposing democratic candidate for the presidency, gave his votes for the bill." The several successive tie votes have been ascribed to design—that of placing Mr. Van Buren in this position. With this intent, other senators voted for the bill, and still others absented themselves, knowing it would not finally pass. This supposition was strengthened by the full vote given on the question of its final passage: ayes, 19; noes, 25; only 4 absent: the three senators from the free states, Buchanan, Tallmadge and Wright, again voting in the affirmative; and Benton, Clay, Crittenden, Goldsborough and Kent, of Maryland, Leigh, Naudain, of Delaware, in all seven, from slave states, in the negative. Here ended another attempt of the south at practical nullification.

On the 11th of December, 1838, Mr. Atherton, of New Hampshire, offered a series of resolutions, denouncing petitions for the abolition of slavery in the District of Columbia, and against the slave trade between the states, as a plan indirectly to destroy that institution within the several states; declaring that congress has no right to do that indirectly which it can not do directly; that the agitation of this question for the above purpose, is against the true spirit and meaning of the constitution, and an infringement of the rights of the states affected, and a breach of the public faith on which they entered into the confederacy; and that

every petition, memorial, or paper relating in any way to slavery as aforesaid, should, on presentation, without further action thereon, be laid on the table without being debated, printed, or referred.

After the close of a speech in support of these resolutions, Mr. A. moved the previous question, which was seconded, 103 to 102. A motion to adjourn that the resolutions might be printed, so that the house might vote understandingly, was objected to by Mr. Cushman, of New Hampshire; and the main question was ordered, 114 to 107. The resolutions were subsequently all adopted by different votes. That which related to the reception of petitions was adopted by a vote of 127 to 78. These resolutions, as well as their author, obtained considerable notoriety, being generally referred to by the friends of the right of petition, as "Ather-ton's gag resolutions." Although the fifth resolution, like one adopted at a former session, prevented a formal reception of petitions, it did not apparently affect their presentation. They were daily offered as usual: indeed an additional object of petition was furnished; numerous petitions being presented for the abolition of the gag resolutions.

CHAPTER LIII.

DISTRIBUTION OF THE SURPLUS REVENUE.—DEATH OF MR. MADISON.—
ADMISSION OF ARKANSAS AND MICHIGAN INTO THE UNION.—RECOGNITION OF THE INDEPENDENCE OF TEXAS.—CLAIMS AGAINST MEXICO.

ANOTHER unsuccessful attempt was made to procure the passage of Mr. Clay's bill to distribute the proceeds of the sales of the public lands. The sum to be distributed was about \$21,000,000. It included the receipts for the last three years, which were in 1833, \$3,967,682; in 1834, \$4,857,600; in 1835, \$12,222,121. The proceeds for these years were large beyond all precedent. The bill passed the senate, 25 to 20; but in the house it was laid on the table, by a vote of 114 to 85.

There being no longer any hope of effecting a distribution of the proceeds of land sales, a new plan of distribution was devised. Although an act had been passed at the last session, (1834-35,) to regulate the public deposits in the state banks, a new bill, designed to afford additional security to these moneys, was reported in the house by Mr. Cambreleng, chairman of the committee of ways and means. Also a bill to regulate the deposits of the public money was introduced into the senate. This bill was so amended as to provide for the distribution of the sur-

plus revenue among the states. To avoid the constitutional objections to distribution which some were known to entertain, among whom was Mr. Calhoun, who had at a former session proposed to amend the constitution for this purpose, the bill was made to provide, that the money should be "deposited with," instead of distributed among, the several states; and that, if the money should at any time be wanted by the general government, it was to be returned at the call of congress.

The act was passed in June, 1836, and provided that the money in the treasury on the 1st of January, 1837, reserving five millions of dollars, should be deposited as above stated, in proportion to their respective representation in the senate and house of representatives of congress, in four quarterly instalments, commencing in January. The secretary of the treasury was to receive for the money certificates of deposits, which, in case the wants of the treasury should require it, might, in whole or in part, be sold by the secretary; the sales to be rateable in just proportions among all the states; and the certificates, when sold, to bear an interest of five per cent., payable half-yearly, and redeemable at the pleasure of the states. Although the money was thus returnable when wanted, it was presumed that it would never be called for. The surplus which had accumulated in 1836 from customs and land sales, exceeded forty millions; of which only about twenty-eight millions were actually divided; congress having found it necessary, in consequence of unexpected wants of the government, to suspend the fourth instalment. No part of the money has yet been called for.

The bill passed both houses by very large majorities. The vote in the senate, on its engrossment, was 40 to 6; on its passage, 38 to 6. Those who voted in the negative were, Messrs. Benton, Black, Cuthbert, Grundy, Walker, and Wright. In the house, the vote on its passage was 155 to 38. It received a strong opposition in the senate from Messrs. Benton and Wright. The speech of the former, after the bill had been ordered to a third reading, was both vehement and caustic. He denounced it as "distribution in disguise—as a deposit never to be reclaimed; as a miserable evasion of the constitution; as an attempt to debauch the people with their own money; as plundering instead of defending the country; as a cheat that would only last till the presidential election was over; for there would be no money to deposit after the first or second quarter; as having the effect, if not the intention, of breaking the deposit banks; and finally, as disappointing its authors in their schemes of popularity." [Benton's View, vol. I, p. 652.]

The bill was signed by the president "with a repugnance of feeling," as that author says, "and a recoil of judgment, which it required great efforts of friends to overcome; and with a regret for it afterwards which

he often and publicly expressed." His approval of the bill, it was understood, had been urged by the friends of Mr. Van Buren, who apprehended from its rejection an adverse effect upon the democratic party in the election. His refusal to sign it, however, would not, it is presumed, have prevented its becoming a law. Having repeatedly recommended "the apportionment of the surplus revenue among the several states according to their ratio of representation, as the most safe, just, and federal disposition which could be made of it," the ground of his subsequent opposition to the measure was a subject of much conjecture.

On the 30th of June, 1836, president Jackson announced, by message, to both houses of congress, the death of James Madison, which occurred on the 28th. The president suggested the adoption of proper measures to testify their sense of respect to his memory. Mr. Rives, a senator from Virginia, and a neighbor of Mr. Madison, passed a brief but beautiful eulogy upon this distinguished patriot and statesman. He had but six days before his death written a letter to Mr. R., in which he spoke of his enfeebled health and trembling signature, and which Mr. R. thought, was the last he had ever written. Said Mr. Rives:

"Still I trusted that his light might hold out to the 4th of July, that he might be restored, on that glorious anniversary, to an immortal companionship with those great men and patriots with whom he had been intimately connected in life, and whose coincident deaths, on the birth-day of the nation's freedom, had imparted to that day, if possible, an additional and mysterious illustration. But it has been ordered otherwise. His career has been closed at an epoch, which, forty-nine years ago, witnessed his most efficient labors in the illustrious assembly which laid the foundations of our present system of government, and will thus, by the remembrance of his death, as well as by the services of his life, more closely associate him with that great work, which is at once the source and the guaranty of his country's happiness and glory."

In the house, his death was appropriately noticed by Mr. Patton, his immediate representative; who was followed by Mr. Adams.

In June, 1836, acts were passed for the admission of Arkansas and Michigan into the union. An act had been passed by the territorial legislature of Arkansas without the approbation of the governor, calling a convention to assemble the 1st of January, 1836, to form a state constitution preparatory to admission. This measure was taken without previous action by congress. The question was submitted to attorney-general Butler, who gave it as his opinion, that all measures to subvert the territorial government, and to establish in its place a new government, without the consent of congress, would be unlawful. The convention was held, and a constitution adopted by the convention; also a

memorial to congress asking for admission. In Michigan, the legislative council was convened by the acting governor, Stevens T. Mason, in September, 1834, without any previous action of congress. The governor recommended that provision should be made to ascertain the population; and in the event of its being 60,000, that a convention should be called to institute a state government, and provision made for the election of a representative and senator to congress. He said: "The state of Michigan will then have a right to demand admission into the union; and it is not to be anticipated that the congress of the United States will hesitate to yield, as a matter of right, what they have heretofore refused to grant as a favor." Conventions were held in both territories, and in 1836 copies of their constitutions were sent to congress with petitions for admission.

Notwithstanding the attorney-general had decided in the case of Arkansas, that her action without the authority of congress was unlawful, bills were reported in the senate in favor of the admission of both territories as states. They were opposed on the ground that the proceedings of the territories in forming their constitutions were unlawful and revolutionary. In the case of Michigan, it was also objected, that the boundary dispute with Ohio was still unsettled; and also that the constitution gave the right of suffrage to unnaturalized aliens. To the first objection it was replied, that, as congress had refused to pass the act asked for, the state authorities were justified in the course they had taken. The memorial of the legislature praying for admission might be considered as coming from the people, and the previous action of congress, being a matter of form, might be dispensed with. Against the objection of alien suffrage, it was urged, that Ohio and Illinois had been admitted with constitutions containing similar provisions; that of Ohio extending the right to all white male inhabitants twenty-one years of age and having had a year's residence in the state; and that of Illinois to the same class of persons, after a residence of six months. In these states, the right still existed; whereas the constitution of Michigan confined it to those who resided in the territory at the time of signing the constitution.

It was deemed proper, however, in the bill to admit Michigan, to settle the boundary question. Accordingly, it established, as the northern boundary of the state of Ohio, a direct line from the southern extremity of lake Michigan to the most northerly cape of Maumee (Maimi) bay, after the line so drawn should intersect the eastern boundary line of Indiana, and from said cape, north-east to the boundary line between the United States and Upper Canada in Lake Erie; and thence along the Canada line to the west line of Pennsylvania. The admission of

Michigan was placed upon the condition, that the boundaries prescribed by congress should be assented to by a state convention of delegates elected by the people. This bill and that for admitting Arkansas, were both passed June 15, 1836. The admission of Michigan, however, was not consummated until the 26th of January, 1837, when, the assent to the boundary line having been duly given, an act of congress declared the admission complete.

On the 23d of June, 1836, a supplement to the act of June 15, was passed, granting to the state section number sixteen of every township, and where such section had been disposed of, other lands equivalent thereto, for the use of schools; and granting to the state the seventy-two sections set apart and reserved by congress for the use and support of a university, to be appropriated solely to that object: also granting all salt springs, not exceeding twelve, with six sections of land adjoining, and appropriating five per cent. of the proceeds of the sales of the public lands for making public roads and canals. A similar act was passed supplementary to that admitting Arkansas.

In the senate, the vote on the conditional admission of Michigan, stood 23 to 8. The friends of the bill being resolved to press the bill to a passage, many of the opposing senators had left their seats. A preceding vote on a motion to recommit the bill, may be considered as very nearly the test vote on the admission; which was, 28 to 19, being, as is believed, a strict party vote. The Arkansas bill passed the senate two days after, (April 4,) 31 to 6. Those who voted in the negative were Messrs. Clay, Porter, of Louisiana, Knight, and Robbins, the senators from Rhode Island, and Swift, and Prentiss, the senators from Vermont. The two last objected to the provisions of the constitution which permitted slavery, and prohibited its abolition. The other four senators objected—all of them, it is believed—on account of the unauthorized proceedings of the people in forming their constitutions. Mr. Prentiss gave this as an additional reason for voting against the admission.

In the house, apprehending opposition from northern members to the Arkansas bill, a motion was made by Mr. Wise to change the order of the two bills, giving to this the precedence. This motion was opposed by several southern members, as implying a distrust of their northern friends. It was also considered unnecessary. Said Mr. Thomas, of Maryland: "Let us proceed harmoniously, until we find that our harmony must be interrupted. We shall lose nothing by so doing. If a majority of the house be in favor of reading a third time the Michigan bill, they will order it to be done. After that vote has been taken, we can refuse to read the bill a third time, go into committee of the whole on

the state of the union, then consider the Arkansas bill, report it to the house, order it to be read a third time, and in this order proceed to read them each a third time, if a majority of the house be in favor of that proceeding. Let it not be said that southern men may be taken by surprise, if the proceeding here respectfully recommended be adopted. If the friends of Arkansas are sufficiently numerous to carry now the motion to postpone, they can arrest at any time the action of the house on the Michigan bill, until clear, indubitable indications have been given that the Missouri compromise is not to be disregarded."

Mr. Wise having modified his motion by moving to refer both bills with instructions to incorporate them into one bill, Mr. Patton and Mr. Bouldin, both of Virginia, opposed that part of this motion which instructed the committee to unite the bills. Mr. B. said he had implicit confidence in the members from the non-slaveholding states, "that no serious difficulty would be made as to the admission of Arkansas in regard to negro slavery." Mr. Lewis, of North Carolina, was in favor of giving precedence to the Arkansas bill, considering it the weaker of the two. The people of the south, he said, wanted a hostage to protect them on this delicate question; and the effect of giving precedence to the Michigan bill would deprive them of that hostage.

Mr. Cushing, of Massachusetts, protested against the admission of Arkansas with the clause in her constitution prohibiting the legislature from passing laws for the emancipation of slaves without the consent of the owners. He concurred with his constituents in condemning the clause "as anti-republican, as wrong on general principles of civil polity, and as unjust to the inhabitants of the non-slaveholding states." The legislature could not emancipate, even if it should be ready to indemnify fully their owners. It was "to foreclose, in advance, the progress of civilization and of liberty forever." He had been asked if he would violate the compromise under which Missouri had entered the union. He said Massachusetts had never assented to that compromise. Most of her representatives had voted against it; and those who had voted for it had been disavowed and denounced at home, and stigmatized even here, by a southern member, as over-compliant toward the exactingness of the south. He concluded a long speech with a severe and eloquent reply to a threat of Mr. Wise, that, if, contrary to the terms of the Missouri compromise, the north should impose restrictions affecting slave property at the south, the latter would be impelled "*to introduce slavery into the heart of the north.*"

The questions raised in the senate as to the right of admission without a previous assent of congress to the formation of a constitution, and to the right of unnaturalized aliens to vote; as also the right of Ark.

ansas to be admitted by virtue of the provisions of the treaty ceding Louisiana, were severally discussed in committee of the whole. Mr. Hamer, of Ohio, contended that congress could, by one act, allow the prayer of the petitioners to become a state, and approve their constitution. He advocated the right of aliens to vote. The right of suffrage was not inseparably connected with that of citizenship. Congress alone could make an American citizen who should be entitled to the rights of citizenship throughout the union; but control over the right of suffrage belonged to the state.

In relation to the right of Arkansas to admission pursuant to the treaty of cession, Mr. Adams said she had a right to come into the union, with her slaves and her slave laws. It was written in the bond, and however he might lament that it ever had been so written, he must faithfully perform its obligations. He was content to receive her as one of the slaveholding states; but he was unwilling that congress, in accepting her constitution, should even lie under the imputation of assenting to an article in the constitution of a state which withheld from its legislature the power of giving freedom to the slave. The house having been twenty hours in continuous session, Mr. Adams said his physical strength was too much exhausted to enlarge on that topic. When the bill should be reported to the house, he might again ask to be heard, upon renewing there, as he intended, the motion for that amendment.

After a farther continuation of the debate, amidst considerable confusion and disorder, Mr. Adams again addressed the committee in favor of his amendment, which was, "that nothing in this act should be construed as an assent by congress to the article in the constitution of the said state in relation to slavery and the emancipation of slaves."

Mr. Slade moved an amendment requiring the people of Arkansas, by a convention, to expunge from the constitution the clause prohibiting emancipation, which also was rejected.

Mr. Wise was opposed to the course of the majority "in pressing the question upon a house, sleepy, tired, and drunk." Being opposed to the motion that the committee report the bills to the house, he said he would speak till 10 o'clock, when the house would be compelled to drop the subject, as it was not the special order for that day. He accordingly continued his speech until that hour, having several times given way to motions that the committee rise, which were lost. The question now arose, whether the committee were obliged to rise in order to take up the special order. After some discussion, and the reading of the rules, the motion to rise was negatived. Mr. Wise then resumed his remarks, and concluded at a little after 11 o'clock.

Mr. M'Kenna, of Pennsylvania, having obtained the floor, said, the members were evidently worn out by this protracted sitting, (twenty-five hours;) many had not slept, and others had not broken their fast. We have, said he, fought the bill manfully, and done our best to stave off the decision upon it. My friend from Virginia, especially, has fought it hard and long, and has, in fact, verified the old adage, *a lean dog for a long chase*. I hope, sir, the committee will rise and report the bills, and that we shall adjourn over until to-morrow. His motion to that effect was carried.

Subsequently, (June 13,) in the house, Mr. Adams offered an amendment to the Michigan bill, reserving to that state the rights and limits secured to the territory by the ordinance of 1787, which, he contended, settled the boundaries of the states of Illinois, Indiana, and Ohio, with that of the territories north of those states, definitively and forever: and the boundaries could not be altered without the consent of congress, the states and territories interested, and Virginia (the state which ceded that portion of territory). The bill before the house altered the boundaries between Ohio and Michigan, to the injury of the latter, and in violation of the original compact. The amendment was lost.

The Michigan bill was ordered to a third reading by 153 yeas, to 45 nays. Of the minority, fifteen were from slave states, chiefly Maryland, Virginia, and Kentucky. On ordering the Arkansas bill to a third reading, the vote was, 143 to 50. Of the negatives, two only were from slave states; Underwood, of Kentucky, and Lewis Williams, of North Carolina; both of whom voted also against the Michigan bill. Mr. Adams, also, voted against both. Much of the opposition to these bills was designed to *postpone* the admission of the new states, rather than to reject them. After the presidential election of that year, a still smaller negative vote would have been given.

In the spring of 1836, the question of the independence of Texas was agitated in congress. Emigration from the United States to that country had been going on for several years, until the population amounted to upwards of 50,000, a majority of which was from the United States. Most or all of the states had contributed to this population, but much the larger portion was from the south-western states. A revolution had been for some time in progress; and independence had been declared in March, 1836, about the time of the horrid massacres at Alamo and Goliad, when the entire opposing forces of the Texans had been slaughtered in cold blood.

In May, intelligence reached Washington of the victory at San Jacinto of the Texans under Gen. Houston over the Mexicans. A strong sympathy in behalf of the Texans, which had for some time been spread-

ing through the union, was now extensively expressed in petitions to congress for a recognition of the independence of Texas; an act to which congress was already strongly predisposed.

Mr. Walker, of Mississippi, moved the reference of the memorials and petitions on the subject to the committee on foreign relations, saying that if the accounts from Texas were official, he would have moved for the immediate recognition of her independence.

Mr. Webster thought it the duty of our government to acknowledge the independence of Texas, if it had a government *de jacto*. But the time and manner of doing so were matters proper for grave and mature consideration; and it would not be best to act with precipitation. If the information received was true, they would hear from Texas herself; for as soon as she felt that she was a country, and had a government, she would naturally present her claims for recognition. It might not be necessary to wait for that event; but he thought it discreet to do so. He would be one of the first to acknowledge the independence of Texas on reasonable proof that she had established a government. Attempts might be made by some European government to obtain a cession of Texas from Mexico.

Mr. King, of Alabama, thought it did not become wise and prudent men, bound to preserve the honor and faith of the country, to be hurried along by the effervescence of feeling, and to abandon our established course toward foreign powers. We had uniformly recognized the existing governments, without stopping to inquire whether they were despotic or constitutional. Having satisfied ourselves that a government exists, we look no further, but recognize it as it is.

Mr. Calhoun took ultra ground, advocating both immediate recognition, and immediate admission into the union, and hoping it would be done at the present session. He mentioned as "powerful reasons" for admission, that "the southern states, owning a slave population, were deeply interested in preventing that country from having the power to annoy them; and the navigating and manufacturing interests of the north and east were equally interested in making it a part of the union."

Mr. Brown, of North Carolina, thought our national character worth more than all Mexican territory or wealth; and it behooved us to act with wisdom and circumspection. The sacred obligations of justice and good faith, formed the indispensable basis of a nation's character, greatness, and freedom, and without which, no people could long preserve the blessings of self-government.

Mr. Rives counseled "moderation, calmness and dignity," and recommended a reference of the subject to the committee on foreign relations.

Mr. Niles also recommended caution. We should regard our national

faith. A precipitate acknowledgment of the independence of Texas might expose our government to a suspicion of having encouraged the enterprises of our citizens who had volunteered in aiding the Texans. And this suspicion would be greatly strengthened by our following the recognition by annexation.

The memorials were referred. The committee consisted of Messrs. Clay, King, of Georgia, Tallmadge, Mangum and Porter. On the 18th of June, the committee reported a resolution in favor of acknowledging the independence of Texas, "whenever satisfactory information should be received that it had in successful operation a civil government, capable of performing the duties and fulfilling the obligations of an independent power."

Mr. Southard, who seemed indisposed to encourage Mr. Calhoun's idea of annexation with the view of maintaining "the balance of power, and the perpetuation of our institutions," having reference, doubtless, to the increase of the political power of slavery, wished it understood, that his vote would relate to the independence of Texas, not to its admission. The contemplated recognition might at the proper time be justified; the latter might be found to be opposed by the highest and strongest considerations of interest and duty. He would then discuss neither; nor was he willing that the remarks of the senator should lead, in or out of that chamber, to the inference that all who voted for the resolution concurred with him in opinion.

Mr. Benton advocated a continuance of our established policy of strict neutrality. Mexico was our nearest neighbor, dividing with us the continent of North America, and possessing the elements of a great power. Our boundaries were co-terminous for two thousand miles. We had inland and maritime commerce. She had mines; we had ships. Upon each were imposed the duties of reciprocal friendship. Merchandise was carried from New Orleans to Mexican ports, from which the return was in the precious metals. Of the ten millions and three-quarters of silver coin and bullion received from abroad the last year, eight millions and one-quarter came from Mexico alone. She had thus far no cause of complaint; nor did the present motion depart from our neutral course, as a recognition was made contingent upon the *de facto* independence of Texas. A separation between Texas and Mexico was certain to take place. They had no affinities. The rich and deep cotton and sugar lands of Texas presented no attractions to the mining and pastoral population of Mexico. Within a few years the settlement of this planting region had been begun by another race. Sooner or later a separation would be inevitable. Mr. B. denied the assertion elsewhere made, that this was a war for the extension of slavery. The settlers in Texas had

gone to live under a government similar to that which they had left behind. The government had been changed, and attempts had been made to reduce the people to unconditional submission. The revolt was just in its origin; it had illustrated the Anglo-Saxon character, and given it new titles to the respect and admiration of the world.

The resolution reported by the committee was adopted unanimously; yeas, 39. A similar resolution was reported in the house by the committee on foreign relations and adopted: yeas, 113; nays, 22. The nays were all or nearly all given by the opponents of the administration. All but one—Mr. Milligan, of Delaware—were from free states. It has been stated as remarkable, that Mr. Adams, who, when a member of Mr. Monroe's cabinet, was against the relinquishment of Texas to Spain in the treaty of 1819, by which Florida was acquired, was, in 1836 and 1844, against its recovery; and that Mr. Calhoun, a member of the same cabinet, was in favor of its alienation, and subsequently in favor of its recovery. Their opposite positions in relation to its acquisition, were attributable to their different opinions as to the policy of annexing slave territory to the union.

At the next session of congress, (December 21, 1836,) president Jackson, in a special message, advised congress not to recognize the independence of Texas, until her ability to protect herself should be established, and there should be no longer any danger of her being again subjected, as had been our policy in the cases of Mexico and the South American states. Since the capture of Santa Anna, the Mexican republic, under another executive, was rallying its forces under a new leader, and menacing a fresh invasion to recover its lost dominion. Several circumstances, he said, required us to act with unwonted caution. Many of our citizens would be anxious for a reünion of that territory to this country. Most of its inhabitants were bound to our citizens by the ties of friendship and kindred blood. They had instituted a government similar to our own. They had, moreover, resolved, on the recognition by us of their independence, to seek for admission into the union. They would also ask us to acknowledge their title to the territory, with the avowed design to treat of its transfer to the United States. A too early movement might subject us to the imputation of seeking to establish the claims of our neighbors to a territory with a view to its subsequent acquisition by ourselves.

Notwithstanding this caution of the president against a premature acknowledgment of the independence of Texas, the senate, on the 1st of March, adopted a resolution declaring the acknowledgment expedient and proper, 23 to 19. In the house a similar resolution was laid on the table, 98 to 86. Subsequently, however, the bill making appropriations

for civil and diplomatic expenses, was so amended as to provide a "salary and outfit of a diplomatic agent to be sent to the government of Texas, whenever the president should receive satisfactory evidence that Texas was an independent power, and that it was expedient to appoint such a minister." Yeas, 171; nays, 76.

Apprehensions were about this time entertained of an interruption of the amicable relations between the United States and Mexico. A treaty of amity, commerce and navigation had been concluded between the two republics, the 5th of April, 1831. Since that time numerous injuries had been committed upon the persons and property of our citizens, and insults had been offered to our flag; and our demands for satisfaction and redress had proved unavailing. One of the causes of the delay, it was presumed, was the distracted condition of the internal affairs of that country. To this cause had recently been added the aid afforded by citizens of the United States to the revolution in Texas, with the supposed connivance or encouragement of the government.

On the 7th of February, 1837, the president called the attention of congress to the subject, by a special message, in which he stated, that the numerous injuries above mentioned, "independent of recent insults to this government and people by the late extraordinary Mexican minister," (who had suddenly taken his departure,) "would justify, in the eyes of all nations, immediate war." He said, however, "considering the present embarrassed condition of that country, we should act with both wisdom and moderation, by giving to Mexico one more opportunity to atone for the past, before we take redress into our own hands." And he recommended an act authorizing reprisals and the use of the naval force by the executive against Mexico, if she should refuse to come to an amicable adjustment of the matters in controversy upon another demand made from on board one of our vessels of war on the coast of Mexico.

The message was referred in both houses to the committees on foreign relations. Neither committee reported in favor of the act asked for by the president, but both reported resolutions in favor of another demand for a redress of grievances before coercive measures were adopted. The senate committee considered it contrary to a provision of the treaty with Mexico, that "neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaint of injuries or damages, until the party considering itself offended shall first have presented to the other a statement of such injuries or damages, verified by competent proofs, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed." The presidential term of Gen. Jackson closing with the expiration of this session, the prosecution of our claims against Mexico devolved upon Mr. Van Buren.

CHAPTER LIV.

SPECIE CIRCULAR.—MEETING OF CONGRESS.—RESOLUTION TO RESCIND THE CIRCULAR.—VETO.—BENTON'S EXPUNGING RESOLUTION.—PRESIDENTIAL ELECTION.

SEVERAL orders were this year (1836) issued from the treasury department to the receivers and disbursers of the public moneys and to the deposit banks, in relation to the receipt and payment of specie. The first of these orders, dated 22d February, 1836, was intended to diminish the circulation of small bank notes, and to substitute specie, especially gold, for such notes. The receipt of bank notes of a denomination less than five dollars had been prohibited after the 30th of September, 1835; and the present order prohibited their *payment* to any public officer or creditor. And unless otherwise prescribed by law, no such notes of a less denomination than ten dollars were to be received or paid after the 4th of July next. And the deposit banks were required, in the payment of all demands not exceeding five hundred dollars, to pay one-fifth in gold coin, if it should be preferred by the creditor. And they were requested not to issue, after the 4th of July, notes less than five dollars, nor after the 3rd of March, 1837, any less than ten dollars. The alleged object of this regulation was, "to render the currency of the country more safe, sound and uniform."

This order was followed, on the 11th of July, 1836, by another, the famed "specie circular," which produced a more intense sensation, probably, than any other political event since the removal of the deposits. In anticipation of the winding up of the business of the bank of the United States, and notwithstanding the efforts of the administration to discourage the issue and circulation of paper money, an unprecedented increase of the number of state banks took place. For the 35 millions of bank capital withdrawn from use by the expiration of the national bank, state bank capital was created to several times that amount. The facility of obtaining bank accommodations encouraged speculations of all kinds to an extent never before known, especially in landed property. The annual receipts from sales of the public lands, had risen within a few years from less than four millions to three and four times that amount! These lands were paid for with this paper money, issued mostly by banks in distant states, and therefore not likely soon to return for redemption.

To prevent the monopoly of the public lands by speculators, and to

check this rapid accumulation in the treasury of paper money, much of which, it was apprehended, would prove inconvertible, this order was issued. In cases of sales, except to actual settlers, or residents of the state, and in quantities not exceeding three hundred and twenty acres, payment for lands sold after the 15th of August, was to be made in specie; and after the 15th of December, in gold and silver, without exception. This order was issued under an existing law, by which the secretary of the treasury was authorized to receive or to reject bank paper, at his discretion. Whether ultimately detrimental to the prosperity of the country or not, its immediate effect was a serious revulsion.

At the preceding session of congress, Mr. Benton had submitted a resolution proposing the exclusion of all paper money in payment for public lands; but his proposition met with little favor. His opinion of the effects of the measure was thus expressed: "Upon the federal government, its effect would be to check the unnatural sale of the public lands to speculators for paper; it would limit the sales to settlers and cultivators; stop the swelling increases of paper surpluses in the treasury; put an end to all projects for disposing of surpluses; and relieve all anxiety for the fate of the public moneys in the deposit banks. Upon the new states, where the public lands are situated, its effects would be most auspicious. It would stop the flood of paper with which they are inundated, and bring in a steady stream of gold and silver in its place." The settlers, too, he said, would be relieved from the competition of speculators who came "with bales of bank notes borrowed upon condition of carrying them far away, and turning them loose where many would be lost, and never get back to the bank that issued them."

The circular was issued only one week after the adjournment of congress; having been purposely withheld, as Mr. Benton says, to avoid any interference of congress, a majority of both houses being known to be opposed to the measure. A majority of the cabinet also were opposed to it.

The 2d session of the 24th congress commenced on the 5th day of December, 1836. Being a short session, and the last under the administration of Gen. Jackson, few acts of importance were passed.

The president, in his message, expressed his disapprobation of the deposit act of the last session, which had "received a reluctant approval." He spoke at length against the distribution principle, and the act in particular. A prominent objection to it was the rule of apportionment which it had adopted, which was unequal and unjust. Instead of a distribution in proportion to the population of each state, the rule prescribed by the constitution for the apportionment of representatives and direct taxes, the money was to be divided among the states accord

ing to their federal representation, both senators and representatives. Delaware, for example, was entitled to but one representative for her population; but her two senators being included in the basis for distribution, gave her more than double the amount she would receive had the apportionment been made according to population. He recommended the adoption of some measure to prevent the accumulation of a surplus making a division necessary. He acknowledged a partial change in his views, and gave reasons for his having recommended distribution in 1829 and 1830. He discussed the currency question—favored a specie circulation, and discouraged the use of bank paper. He defended the “specie circular” and the destruction of the bank, as salutary measures, and pronounced the state banks fully equal to the former in transferring the public moneys.

He also called attention to the bank of the United States, which had, before the expiration of the charter, obtained an act of incorporation from the legislature, and was now a state bank. Instead of proceeding to wind up its affairs, and paying over to the government the amount of the stock held by it, the president and directors of the old bank had transferred the books, papers and effects to the new corporation, which had entered upon business as a continuation of the old concern.

A few days after the commencement of the session, Mr. Ewing, of Ohio, introduced into the senate a joint resolution “to rescind the treasury order of July 11, 1836, and to prohibit the secretary of the treasury from directing what funds should be receivable in payment for public lands, and from making any discrimination in the funds so receivable, between different individuals, or between different branches of the public service;” thus requiring the same kind of money in payment for customs as for lands.

Mr. Ewing, in explaining his reasons for offering the resolution, said he thought other objects than those which had been avowed, were contemplated by the issuing of the circular. It had been foreseen before congress met, that some measure would be attempted to check the accumulation of public money in the hands of the executive. When the distribution was brought forward, it was positively asserted, that there would be no surplus revenue; but when these statements were contradicted by the rapid influx of public money, it was declared that the whole surplus would be required for the necessities of the country. And the secretary of the treasury had, in his report of December, under-estimated the probable amount in the treasury the 1st of January thereafter, by many millions—an error so gross as scarcely to be attributable to inadvertence. When other expedients had failed, only seven days after the adjournment of congress, the order was issued, thus chang-

ing, without the advice of congress, the character of the funds to be derived from one of the greatest sources of revenue.

The people had been told that the evils they suffered were attributable to the distribution bill. But they well understood the true source of the evil to be the treasury circular. One object of those who advised the act, was to limit the sales of the public lands and raise their prices; and the order had effected the object, and benefited the speculators, and the deposit banks from which they had borrowed the money. Another object of the order was to save the deposit banks from failure. It had been said by senators that the distribution bill would break many of these banks. This order was therefore intended to collect specie in the land-offices, to be distributed among these banks to enable them to pay over the money to the states. It had been said the order would prevent the over issues of banks. To this he replied, that there had been no over issues except by the deposit banks; and these would not be affected by the order, but would be relieved by the aid of this specie from the effect of their improvident loans. The increase of the issues of the western banks which had taken place within the last few years, was no greater than the increasing commerce of the country had demanded. When the order was issued, the banks were compelled to stop their loans, and push their creditors, and thus the whole commerce of the west had been crippled.

Mr. Benton, in reply, said in reference to the surplus remaining in the treasury, that fifteen or sixteen millions of it were already appropriated, but had been kept there because the appropriations at the last session had been so long delayed as not to leave time for the money to be expended. If the appropriations had been made in time, there would have been no greater surplus than often before. The existing surplus had been created by congress itself. He regarded the present movement against the circular as being dictated by the same motives as that of 1833 against the removal of the deposits. This, however, was but an impotent affair compared to that. "Then," said Mr. B., "we had a magnificent panic; now, nothing but a miserable starveling! . . . a mere church-mouse concern—a sort of dwarfish, impish imitation of the gigantic spectre which stalked through the land in 1833."

Mr. B. referred to a letter from Mr. Biddle, and a late speech of Mr. Clay in Lexington, in relation to the treasury order, in which they had "given out the programme for the institution of the little panic; and the proceeding against the president for violating the laws; and against the treasury order itself as the cause of the new distress." Such was the construction which he gave to the letter and the speech of these gentlemen. Considering the existing state of things as chargeable to

the bank and its friends, and designed to aid them in getting a renewal of its charter as a remedy for the evils which they had themselves created, he said: "There is no safety for the federal revenues but in the total exclusion of local paper, and that from every branch of the revenue—customs, lands, and post-office. There is no safety for the national finances but in the constitutional medium of gold and silver. After forty years of wandering in the wilderness of paper money, we have approached the confines of the constitutional medium. Seventy-five millions of specie in the country, with the prospect of an annual increase of ten or twelve millions for the next four years; three branch mints to commence next spring, and the complete restoration of the gold currency, announce the success of president Jackson's great measures for the reform of the currency, and vindicate the constitution from the libel of having prescribed an impracticable currency. The success is complete; and there is no way to thwart it, but to pull down the treasury order, and to reopen the public lands to the inundation of paper money. Of this, it is not to be dissembled, there is great danger. Four deeply interested classes are at work to do it—speculators, local banks, United States bank, and politicians out of power. They may succeed: but I will not despair. The darkest hour of night is just before the break of day; and through the gloom ahead, I see the bright vision of the constitutional currency erect, radiant and victorious. If reform measures go on, gold and silver will be gradually and temperately restored; if reforms are stopped, then the paper runs riot, and explodes from its own expansion."

Mr. Crittenden admitted that the deposit banks had been strengthened by the order, as had been asserted by Mr. Benton, but it was at the expense of all the other banks in the country. The specie was collected and carried into the vaults of the former, and went to disturb and embarrass the general circulation of the country, and to produce the pecuniary difficulty felt in all quarters of the union. The distress was at least, through the west, attributed to that cause. The senator from Missouri supposed the order had produced no part of the pressure. If not, what had it produced? Had it increased the specie in actual and general circulation? If it had done no evil, what good had it done? So far as it had operated at all, it had been to derange the state of the currency, and to give it a direction inverse to the course of business. Our great commercial cities were the natural repositories where money centered and settled. There it was wanted, and was more valuable, than in the interior. Any intelligent business man in the west would rather have money paid him for a debt in New York, than at his own door. Hence, forcing the specie against the natural course of business from east to west was beneficial to none, injurious to all. This course, he

said, might be disturbed for a time, but it was like forcing the needle from the pole: turn it round and round as often as you pleased, if left to itself, it would still settle at the north. Men might as well escape from the physical necessities of their nature as from the laws which governed the movements of finance; and the man who professed to reverse or dispense with the one was no greater quack than he who made the same professions with regard to the other. The distribution bill had been charged with the mischief; and he admitted that the manner in which the government was attempting to carry that law into effect, might in part have furnished grounds for such a supposition; and he had no doubt that it had aggravated the pecuniary distress of the country.

Mr. Webster regarded the principles of Mr. Benton respecting currency as ultra and impracticable; looking to a state of things not desirable in itself, even if it were practicable; and if it were desirable, as being beyond the power of the government to bring about. The question was now raised, whether these principles were to prevail against those which had long been established in this country; and it would soon be decided, so far as the senate was concerned. A new administration was about to come in. While it receives the power and patronage of the past, would it inherit also its topics and projects? Would it keep up the avowal of the same objects and schemes, especially in regard to the currency? The order was prospective, and, on the face of it, perpetual. Was it to be the rule under the ensuing administration? The country was interested in these questions.

It was remarkable, said Mr. W., that frauds, speculation and monopoly should have become so enormous and notorious on the 11th of July, as to demand executive interference, and yet not have reached such a height as to make it proper to lay the subject before congress, which had adjourned only seven days before. And what made it more remarkable was, that the president had, in his annual message, spoken of the rapid sales of the public lands as one of the most gratifying proofs of general prosperity, having reached "the unexpected sum of eleven millions." How so different a view of things happened to be taken at the two periods, might perhaps be learned in the farther progress of this debate.

The order, he said, spoke of the "evil influence" likely to result from the further exchange of the public lands, for "paper money." This was the language of the gentleman from Missouri, who habitually spoke of the notes of all banks, however solvent, and however promptly they redeemed their notes in gold and silver, as "paper money." The secretary had adopted the gentleman's phrases, which, as financial language, were quite new. By paper money in its obnoxious sense, he (Mr. W.) understood paper issues on credit alone, without capital, resting only on

the good faith and ability of those who issue it, as was the paper money of revolutionary times, and as may have been the character of the paper of particular institutions since. But the notes of banks of competent capitals and duly restricted, made payable on demand in gold and silver, and so paid, were paper money only in this sense, that they were made of paper, and circulated as money. If this language of the order was authentic, and all notes were to be hereafter regarded and stigmatized as mere "paper money," the sooner the country knew it, the better.

After a farther discussion of the subject, it was referred to the committee on public lands; and on the 18th of January, 1837, Mr. Walker, from that committee, made a report, accompanied by a bill, providing that the government should receive the paper of such banks only as should thereafter issue no notes less than five dollars, and after the 30th of December, 1839, none less than ten dollars, and as should pay their notes on demand in gold and silver. They were also required, under the control of the secretary, to pass the paper thus received to the credit of the United States as cash. The provisions of the bill extended to the receipt of money for duties, taxes, and debts. It was subsequently amended, on motion of Mr. Rives, so as to restrict these banks to the issue, after 1841, of notes not less than twenty dollars; and on motion of Mr. Clay so as to rescind the treasury order. In this shape it passed the senate: ayes, 41; noes, 5—Messrs. Benton, Linn, Morris, Ruggles, Wright.

Mr. Calhoun declined voting, assigning as a reason, that this measure could not arrest the downward course of the country. It was doubtful whether any skill and wisdom could restore the currency to soundness. An explosion he considered inevitable, and so much greater, the longer it should be delayed. Being unprepared to assign his reasons for the vote he might give, he was unwilling to vote at all.

The bill passed the house also by a large majority: the vote on its engrossment for a third reading, was, ayes, 143; noes, 59. Its passage was on the 2d of March, the day before that which terminated the constitutional term of congress and of the administration. It was sent to the president, who returned it to the senate, with the objection, that its provisions were "so complex and uncertain, that he deemed it necessary to obtain the opinion of the attorney-general on several important questions touching its construction and effect." That officer concurring with him that its construction would be "a subject of much perplexity and doubt," he did "not think it proper to approve a bill so liable to a diversity of interpretations."

A bill was also passed by the senate, "to prohibit the sales of public lands, except to actual settlers, and in limited quantities," 27 to 23; but in the house, it was, on the 2d of March, laid on the table, 107 to 91.

The purpose of Mr. Benton, announced on the passage of the resolution of the 28th of March, 1834, condemning the exercise of power by the president in relation to the removal of the deposits, had been faithfully carried out, by his moving, at each succeeding session, to expunge that resolution from the journal of the senate. That motion was made at this session for the last time. The changes which had taken place in that body in consequence of resignations and of the expiration of terms of senators since 1834, had given to the administration party the predominance; and nothing but unanimity was necessary to effect the long meditated object of the mover.

The resolution was debated on Friday and Saturday, the 13th and 14th of January, 1837. Contemplating final action on the subject on Monday, a meeting of the democratic senators was held on Saturday, to consult on the manner in which the act should be performed. In order to secure the necessary unanimity, the *obliteration* of the resolution, Mr. Benton's favorite mode, was given up; and that proposed by the legislature of Virginia adopted; which was, to draw black lines around the obnoxious resolution. To this Mr. B. assented, as he tells us, "on condition of being allowed to compose the epitaph," to be written across the enclosed lines: "Expunged by the order of the senate."

Mr. Benton thus continues his account of the proceedings of the meeting, which, he says, was held in the night at a famous restaurant, giving to the assemblage the air of a convivial entertainment: "The agreement which led to victory was then adopted, each one severally pledging himself to it, that there should be no adjournment of the senate, after the resolution was called, until it was passed; and that it should be called immediately after the morning business of the Monday ensuing. Expecting a protracted session, extending through the day and night, and knowing the difficulty of keeping men steady to their work and in good humor, when tired and hungry, the mover of the proceeding took care to provide, as far as possible, against such a state of things; and gave orders that night to have an ample supply of cold hams, turkeys, rounds of beef, pickles, wines, and cups of hot coffee, ready in a certain committee room near the senate chamber by four o'clock, on the afternoon of Monday."

The subject was called up pursuant to arrangement; and the debate was renewed: a debate less distinguished, perhaps, as a discussion of constitutional and political principles, than for the indications which it gave of a reverse of feeling of parties in that body. The author and supporters of the condemnatory resolution of 1834, were about to witness a mortifying exhibition—to receive in turn an infliction similar to that which they had dealt out to their opponents a few short years before. The

speeches of the subdued senators furnish a pretty clear index to their feelings on that occasion.

Mr. Calhoun said : " No one, not blinded by party zeal, can possibly be insensible that the measure proposed is a violation of the constitution. The constitution requires the senate to keep a journal; this resolution goes to expunge the journal. If you may expunge a part, you may expunge the whole; and if it is expunged, how is it kept? * * * This is to be done, not in consequence of argument, but in spite of argument. I know perfectly well the gentlemen have no liberty to vote otherwise." [Mr. Calhoun here alluded to the instructions which some senators had received from their state legislatures.] " They try, indeed, to comfort their conscience by saying that it is the will of the people. It is no such thing. We all know how these legislative returns have been obtained. It is by dictation from the White House. The president himself, with that vast mass of patronage which he wields, and the thousand expectations he is able to hold up, has obtained the votes of the state legislatures; and this, forsooth, is said to be the voice of the people. The voice of the people! Sir, can we forget the scene which was exhibited in this chamber when that expunging resolution was first introduced here? Have we forgotten the universal giving way of conscience, so that the senator from Missouri was left alone? I see before me senators who could not swallow that resolution; and has its nature changed since then? Is it any more constitutional now than it was then? Not at all. But executive power has interposed. Talk to me of the voice of the people! No, sir; it is the combination of patronage and power to coerce this body into a gross and palpable violation of the constitution. * * *

" But why do I waste my breath? I know it is all utterly vain. The day is gone; night approaches, and night is suitable to the dark deed we meditate." Mr. C. said other violations had been committed; but they had been done in the heat of party. In these, power had been " compelled to support itself by seizing upon new instruments of influence and patronage;" among these was the removal of the deposits, which gave to the president ample means of " rewarding his friends and punishing his enemies." Said Mr. C., " Something may, perhaps, be pardoned to him in this matter, on the old apology of tyrants—the plea of necessity. Here no necessity can so much as be pretended. This act originates in pure, personal idolatry. It is the melancholy evidence of a broken spirit, ready to bow at the feet of power. The former act was such a one as might have been perpetrated in the days of Pompey or Cæsar; but an act like this could never have been consummated by a Roman senate until the times of Caligula and Nero."

Mr. Clay expressed his disappointment at the intention of again putting this resolution to a vote. He said: "It is, however, now revived; and sundry changes having taken place in the members of this body, it would seem that the present design is to bring the resolution to an absolute conclusion." He concluded his speech with a violent denunciation of the president and his friends, thus: "The decree has gone forth. The deed is to be done—that foul deed which, like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out. Proceed, then, with the noble work which lies before you, and, like other skillful executioners, do it quickly. And when you have perpetrated it, go home to the people, and tell them what glorious honors you have achieved for them and the country. Tell them that you have extinguished one of the brightest and purest lights that ever burnt at the altar of civil liberty. Tell them that you have silenced one of the noblest batteries that ever thundered in defense of the constitution, and bravely spiked the cannon. Tell them that, henceforward, no matter what daring or outrageous act any president may perform, you have forever hermetically sealed the mouth of the senate. Tell them that he may fearlessly assume what powers he pleases, snatch from its lawful custody the public purse, command a military detachment to enter the halls of the capitol, overawe congress, trample down the constitution, and raze every bulwark of freedom; but that the senate must stand mute, in silent submission, and not dare to raise its opposing voice; that it must wait until a house of representatives, humbled and subdued like itself, and a majority of it; composed of the partisans of the president, shall prefer articles of impeachment. Tell them, finally, that you have restored the glorious doctrines of passive obedience and non-resistance. And, if the people do not pour out their indignation and imprecations, I have yet to learn the character of American freemen."

Mr. Webster, who made the concluding speech, protested against the intended act, as unconstitutional. "A record *expunged*," he said, "is not a record which is *kept*, any more than a record which is *destroyed* can be a record which is *preserved*. The part expunged is no longer part of the record; it has no longer a legal existence. It can not be certified as a part of the proceeding of the senate for any proof or evidence." He protested also that they had no right to deprive him of the personal constitutional right of having his yea and nay recorded and preserved on the journal. They might as well erase the yeas and nays on any other, or on all other questions as on this. He expressed his deep regret to see the legislatures of respectable states instructing their senators to vote for violating the journal of the senate. He believed these proceedings of states had their origin in promptings from Wash

ington; and had been brought about by the influence and power of the executive branch of this government.

"But this resolution is to pass. We expect it. That cause which has been powerful enough to influence so many state legislatures, will show itself powerful enough, especially with such aids, to secure the passage of the resolution here. . . . We collect ourselves to look on, in silence, while a scene is exhibited which, if we did not regard it as a ruthless violation of a sacred instrument, would appear to us to be little elevated above the character of a contemptible farce." The following is his concluding paragraph:

"Having made this PROTEST, our duty is performed. We rescue our own names, character, and honor, from all participation in this matter; and whatever the wayward character of the times, the headlong and plunging spirit of party devotion, or the fear or the love of power, may have been able to bring about elsewhere, we desire to thank God that they have not, as yet, overcome the love of liberty, fidelity to true republican principles, and a sacred regard for the constitution, in that state whose soil was drenched to a mire, by the first and best blood of the revolution. Massachusetts, as yet, has not been conquered; and while we have the honor to hold seats here as her senators, we shall never consent to a sacrifice either of her rights or our own. We shall never fail to oppose what we regard a plain and open violation of the constitution of the country; and we should have thought ourselves wholly unworthy of her if we had not, with all the solemnity and earnestness in our power, protested against the adoption of the resolution now before the senate."

It was now near midnight; and the vote was taken in the presence of a crowd of spectators. There were yeas, 24; nays, 19; absent, 5. After the resolution had passed, the secretary of the senate, according to order, took the manuscript journal of the senate, and drew a square of broad black lines around the resolution of the 28th of March, 1834, and wrote across it, "Expunged by order of the senate, this 16th day of January, 1837."

Mr. Benton, in closing his account of the transaction, says: "The gratification of General Jackson was extreme. He gave a grand dinner to the expungers (as they were called) and their wives; and being too weak to sit at the table, he only met the company, placed the 'head-expunger' in his chair, and withdrew to his sick chamber. That expurgation! it was the 'crowning mercy' of his civil, as New Orleans had been of his military life!"

At the presidential election in 1836, the electoral vote was divided upon five individuals. Mr. Van Buren had been nominated by a na-

tional democratic convention held in Baltimore, in February, 1835, with Richard M. Johnson, of Kentucky, for vice-president. This convention was held, if not at the instance, yet in accordance with the previously expressed wishes of Gen. Jackson, who, as was well known, was desirous that Mr. Van Buren should be his successor. Mr. Van Buren also was known to be in favor of the project. No other national convention to nominate a candidate for president, was held. Gen. William H. Harrison was nominated by whig conventions in many of the states, and by the anti-masonic state convention, at Harrisburg, Pa. Francis Granger was nominated at most or all of these conventions for vice-president. Hugh L. White, senator in congress from Tennessee, and a friend of Gen. Jackson, was nominated in January, 1835, by the legislature of Alabama. He was also nominated by the people of Tennessee, in which nomination the delegation from that state in the house of representatives in congress concurred, with the exception of James K. Polk and Cave Johnson. John M'Lean, of Ohio, and Daniel Webster, of Massachusetts, had been nominated by the whig members of the legislatures of these states.

Mr. Van Buren received of the electoral votes, 170; Gen. Harrison 73; Judge White, 26; Mr. Webster, 14; and Willie P. Mangum, of North Carolina, 11. Total, 294. For vice-president, R. M. Johnson, 144; Francis Granger, 77; John Tyler, 47; Wm. Smith, 23. Total, 294. There would probably have been a less scattering vote, but for the hope of diminishing the chances of Mr. Van Buren's success by bringing the election into the house of representatives.

CHAPTER LV.

MR. VAN BUREN'S INAUGURATION.—SPECIAL SESSION OF CONGRESS.—
SUB-TREASURY.—OTHER FINANCIAL MEASURES.

ON the 4th of March, 1837, Martin Van Buren was inaugurated as president of the United States. The inauguration was attended with the display usual on such occasions. He was accompanied to the capitol by his predecessor, General Jackson, where he delivered his inaugural address, and took the oath of office, administered by chief justice Taney.

The inaugural address gave no indications of a change in the general policy of the government. A prominent topic of the address was the then agitating question of the abolition of slavery in the District of

Columbia. He had been interrogated on this agitating subject before the election; and he then declared that, if elected, he "must go into the presidential chair the inflexible and uncompromising opponent of every attempt, on the part of congress, to abolish slavery in the District of Columbia, against the wishes of the slaveholding states; and also with a determination equally decided to resist the slightest interference with it in the states where it exists;" and said: "It now only remains to add, that no bill conflicting with these views can ever receive my constitutional sanction." His reserve and caution in committing himself on public measures, was proverbial—a trait of character familiarly denominated by his opponents, "non-committalism." This announcement, in advance, therefore, of his views and intentions in relation to this subject, was the more noticed, and was attributed by his opponents to the design of strengthening his popularity at the south. Such announcement was deemed the more uncalled for, as there was not the slightest probability of the passage of a bill like that which he had thus foredoomed. It was regarded by many also as objectionable in *principle*—as an improper interference, on the part of the executive, with the freedom of legislation.

Mr. Van Buren's accession to the presidency occurred at an unpropitious period. The pecuniary pressure which followed the issuing of the specie circular, and which was already general and severe, was rapidly approaching its crisis. This pressure was extensively regarded as the natural result of a policy which he was pledged to continue. In May, the event for some time anticipated by many—a general bank explosion—took place. The banks in the city of New York, by common consent, suspended specie payments. The banks in other cities were compelled to adopt the same course. In the state of New York, the legislature legalized the suspension for one year.

Among the causes to which the suspension of specie payments was ascribed, were the diversion of specie to the west, and the drain upon the banks in the Atlantic cities for exportation to Europe, to pay for the excessive importations of goods. Another cause of the derangement of the currency was supposed to be the large loans made by the banks having on deposit the surplus revenue, with the expectation that it would remain with them until called for by the general government. Instead, however, of being permitted to retain these funds as a basis for the extension of their loans, they were unexpectedly demanded for the purpose of distribution among the states.

The speculation and enormous appreciation of property during the last two or three years, was followed by a revulsion, and a corresponding depreciation. Mercantile failures in the commercial cities, as Boston

New York, and New Orleans, exceeding in number and amount, probably, any that ever occurred within an equal period of time, took place in a few months before and after the suspension. Representations of the vast depreciation of property, of the general prostration of business, were made to the president, with requests to rescind the specie circular, and to call an extra meeting of congress. On the 15th of May, a few days after the suspension in the city of New York, a proclamation was issued for convening congress on the 1st Monday in September.

But for the general suspension, it is doubtful whether the president would have convened congress. Under the provisions of the resolutions of 1816, and by the act of 1836, regulating the deposits, the federal officers were prohibited from receiving or paying out the notes of any but specie-paying banks. And the deposit banks, as well as others, had now suspended. Under existing laws, therefore, no collections or disbursements of public moneys could be made. If done at all, it must be done in violation of law.

Pursuant to the proclamation, congress assembled on the 4th of September, 1837. The president's message was almost exclusively devoted to the banks and currency, the causes of the existing difficulties, and their remedy. He suggested the entire disuse of banks as fiscal agents of the government, the collection, safekeeping, transfer, and disbursements of the public money by officers of the government, and of the employment of specie alone in its fiscal operations. It was the recommendation of the *sub-treasury* scheme. He believed the exclusive use of specie a practicable operation. Of the seventy or eighty millions in the country, ten millions would be sufficient for the purpose, if the accumulation of a large surplus revenue were prevented. The large increase of specie since the act of 1834, had contributed largely to the feasibility of the measure. The gold coinage alone had been since August, 1834, ten millions, which exceeded the whole coinage at the mint during the thirty-one previous years. By using specie only in government operations, a demand for it would be created, and its exportation prevented.

In consequence of the great pecuniary embarrassments, there had been a diminished revenue from importations and the sale of public lands, while the appropriations had been many millions more than had been asked for in former estimates. To supply the deficiency in the treasury thus produced, the president recommended the withholding of the fourth and last instalment, then in the treasury, of \$9,367,200, directed by the act of June, 1836, to be deposited with the states in October next.

No measure having direct reference to the relief of the people, was recommended. The president hoped, however, that the adoption of the proposed fiscal measures would, "by their necessary operation, afford essential aid in the transaction of individual concerns, and thus yield relief to the people at large, in a form adapted to the nature of our government." He said: "Those who look to the action of this government for specific aid to the citizen to relieve embarrassments arising from losses by revulsions in commerce and credit, lose sight of the ends for which it was created." "All communities are apt to look to government for too much. * * * To avoid every unnecessary interference with the pursuits of the citizen, will result in more benefit than to adopt measures which could only assist limited interests, and are eagerly, but perhaps naturally sought for, under the pressure of temporary circumstances."

In conformity to the suggestions of the president, a bill was reported in the senate by Mr. Wright, chairman of the committee on finance. It was entitled, "A bill imposing additional duties as depositaries, in certain cases, on public officers." It required all officers of the general government receiving public moneys, safely to keep, without loaning or using them, until duly ordered to transfer them or pay them out. Bonds for their safe-keeping were to be given; and their accounts were to be submitted for examination once a year or oftener, at the discretion of the secretary of the treasury. The accounts of collectors of customs, receivers of land-offices, and treasurers of the mints, were to be returned to the treasury department, quarterly or oftener, at the discretion of the secretary. The same bill was reported to the house of representatives, by Mr. Cambreleng, chairman of the committee of ways and means. This was the bill for the establishment of the *independent treasury*, commonly called the sub-treasury.

Several other bills for the temporary relief of the government, were reported, and promptly acted on by the senate: (1.) A bill to postpone the payment of the fourth instalment of the deposits with the states; (2.) A bill to authorize the issue of treasury notes; (3.) A bill extending the time for the payment of merchants' bonds; (4.) A bill for adjusting the remaining claims on the deposit banks; and (5.) A bill to authorize merchandise to be deposited in public stores.

The bill to postpone payment of the deposits, after a brief debate, and the adoption of an amendment offered by Mr. Buchanan, providing that "the three instalments already paid do remain on deposit until directed by congress," instead of being subject to be called for by the secretary of the treasury, was passed, 28 to 17, and sent to the house for concurrence. The chief participators in the debate were Messrs Wright, Rives, Webster, Buchanan, and Calhoun.

Mr. Webster made the principal speech against the bill. He regretted that the measures of the president and his secretary regarded only one object, the relief of the government. The community also needed relief from the evils which it suffered : these, however, were capable of a distinct consideration. He mentioned, first, the wants of the treasury, arising from the stoppage of payments, and the falling off of the revenue. A second and greater evil was the prostration of credit, the derangement of business, arising from the suspension of the local banks. A third evil was the want of an accredited paper medium equal to specie, having equal credit over all parts of the country. The secretary's report, as well as the message, regarded exclusively the interest of the government, forgetting, or passing by the people. He (Mr. W.) rejoiced at the clear shape which the question had at last assumed. Was there any duty incumbent on the government, to superintend the actual currency of the country ? to do anything but to regulate the gold and silver coin ? Might it abandon to the states and to the local banks the unrestrained issue of paper for circulation, without any attempt on its part to establish a paper medium equivalent to specie, and universally accredited all over the country ?

Mr. W. contended that the power to regulate commerce between the states carried with it, necessarily and directly, the essential element of commerce—the currency, the money, which constituted the life and soul of commerce. Paper money, in this age, was an essential element in all trade between the states ; it was connected with all commercial transactions : and it belonged to the general government, and not to the state governments, to provide for or regulate the currency between the states. A paper medium equivalent to coin, and of equal credit in all parts of the country, was an important instrument of exchange. Currency and exchange were united : and if the government would do its duty on the great subject of the currency, the mercantile and industrious classes would feel the benefit through all the operations of exchange.

In remarking on the bill, he said that its object was a necessary one ; but he did not think it provided the best mode of relief. The money was expected by the states ; some of them had already disposed of it in advance. And was it wise to add another to the causes in operation, disturbing the business transactions of society ? But the bill, if passed, would not essentially aid the treasury. The secretary himself virtually acknowledged it, for he says he wants other aid, and asks for an issue of some millions of treasury notes. He would therefore get the money without the bill. But what sort of notes did the secretary propose to issue ? Notes of small denominations, down even to twenty dollars, bearing no interest, redeemable at no fixed period ; receivable for debts

due the government, but not otherwise to be paid, until, at some indefinite time, there should be in the treasury a surplus beyond what the secretary might think its wants required. It was plain, authentic, statutable paper money: a new emission of old continental. If this was not paper money, what was it? And who expected this? Who expected that, in the fifth year of the EXPERIMENT FOR REFORMING THE CURRENCY, and bringing it to an absolute gold and silver circulation, the treasury department would be found recommending to us a regular emission of PAPER MONEY?

Mr. Wright defended the bill as a proper measure for providing for the payment of the public creditors. The law requiring the transfer of the surplus moneys from the treasury to the states, provided for its safe-keeping, and that only. The time had arrived when the United States had no money to keep, and not enough for the necessary public expenditures. The amount in the treasury was only about \$3,000,000, subject to draft, and that would be so reduced by payments in September, that not more than two-thirds of the fourth instalment could be paid. The question therefore was, whether the government should borrow money to be transferred to the states for safe-keeping. He was sensible that inconvenience would result from withholding the instalment. In his own state the matter had been so arranged, that if it was not received, it must be paid out of the treasury of the state. This made his situation delicate; but he regarded his duty as paramount.

The senator from Massachusetts, Mr. W. said, had remarked with some asperity and surprise on the recommendation of the secretary for issuing notes not bearing interest. The committee, differing from the secretary, had provided for allowing interest till there should be means to redeem the notes. The senator erred, however, in regarding this as a new currency under the constitution. Congress, in 1815, had authorized the issuing of treasury notes: those for less than \$100 payable to bearer, without interest; but for \$100 or more, payable to order, bearing interest at the rate of 5 2-3 per cent., or otherwise to the bearer without interest. The senator considered the president inconsistent in saying that he refrained from suggesting any specific plan for regulating the currency and exchanges, because he thought congress had no power to act for such a purpose; and yet he had recommended a bankrupt law against corporations and other bankers. But the constitution did expressly authorize the passage of a general bankrupt law. He was therefore guilty of no inconsistency.

Mr. Webster said, if the act of 1815 authorized the issuing of treasury notes, no circulation was ever made of them as the secretary now recommended. All treasury notes went on the ground of a temporary loan to

the government, to be paid or funded as soon as the treasury would allow. During the late war, there was a great want of money, and a great disposition to use treasury notes in the payment of public creditors. But at such times things were done which we should be slow to do, in a day of peace.

Mr. Buchanan contended that congress had, in the act of 1815, done the very thing which Webster had said had not been done since the days of the confederation. He rejoiced, however, that the committee of finance had proposed the issue of no notes not bearing interest. He was in favor of this bill. He had voted for the deposit act of June, 1836, only as a choice of evils. On the one side, nearly forty millions, (besides the five millions to be reserved,) had accumulated in the deposit banks. By the use of this money, they were increasing the dividends of their stockholders, expanding extravagantly the paper circulation, and exciting speculation to the greatest excess. On the other hand, he had strong objections to making the federal government an instrument for collecting money that it might be deposited with the states. But the money being on hand, and having been collected under existing laws, he thought it more just, more politic, more safe, to place it in deposit with the states to be used for the benefit of the people, than to suffer it to remain in the banks for the benefit of their stockholders, and to the injury of the country.

But the deposit law made no gift or loan to the states. It merely transferred the deposits from the banks to the states. The faith of the states was pledged for the safe-keeping of the money, and for its repayment whenever required by the secretary for defraying the expenses of the government. Such want has now occurred; and it would be in the line of his duty to call on the states for a portion of the instalments already paid. But he had acted wisely in not making the demand until the pleasure of congress could be known. The states were not now in a condition to return immediately any portion of what they had already received. On the face of the act nothing but *deposit* was written; and if the states expected it as a loan or gift, it was not from their solemn contract with the United States under this law.

But for the unfortunate amendment made to the deposit bill by the house of representatives, and acquiesced in by the senate, congress, Mr. B. said, would not have been involved in its present difficulties; and the fourth instalment might be deposited with the states. The secretary would have received from them transferable certificates of deposit, in convenient sums, bearing no interest until it became necessary for him to use them, but afterwards bearing an interest of five per cent., and redeemable at the pleasure of the states. Such certificates would now

command a premium in the market, and be equal to gold and silver; and the treasury might have been replenished by their sale.

Mr. Calhoun said he was in favor of the postponement. The object of the deposit law was to draw the revenue out of the grasp of the government, and to restore it to those to whom it ought to be restored. And now when there was no surplus, it was not contrary to the purpose of that law to withhold it. But the responsibility would rest on gentlemen of the administration and those of the opposition who made last year the extravagant appropriations of \$32,000,000, exceeding the estimate of the secretary of the treasury. The government was now bankrupt. Another era had arisen. They had got through with the surplus, and, he trusted, they were through with extravagant appropriations. If they did not economize and retrench, he saw a new age commencing, perhaps that of treasury notes, when the compromise act would be annulled, the high tariff revived. But he would agree that the fourth deposit should be withheld, since the law had fulfilled its main purpose, and since a new series of extravagances was now to arise, unless they kept a good lookout.

The amendment of Mr. Buchanan was then adopted, and the bill passed as before stated.

The bill authorizing the issue of treasury notes was next taken up.

Mr. Wright moved to fill up the first blank in the bill with the word "ten," making the amount to be issued ten millions; which, he said, would, as he had learned from the secretary of the treasury, be about the amount required.

Mr. Clay inquired if the money in the banks was to be used as bank notes; or if the banks were to be compelled to pay them in specie, and then if these funds were to be left idle.

Mr. Wright said they would not be used as bank notes, unless the law should authorize them to be so used.

Mr. Clay said: "Then it comes to this: we have passed a bill to take funds out of the hands of those who would have been glad to use them, to put them into the hands of those who refuse to acknowledge and make use of them. The states would have been glad to receive this money in the shape of bank notes, and we have taken it from them. Again: government refuses to call them funds in that shape, and to government we have now made them over by the bill just passed! And as government, though it receives those funds, and prevents their being paid to the states, will not acknowledge them as funds, there is a deficiency existing; and this deficiency is to be supplied by issuing treasury notes, in order that government may be able to get along. That is to say, government will not receive the paper of the country, and is

about to create a paper of its own, which the country is expected to receive ! And thus, all the promises which have been made to us of the flowing of gold and silver all over the country, these promises of a better currency result in the issue of ten millions of paper money !”

Mr. Calhoun addressed the senate at length. Though he was in favor of the bill, he made little or no direct reference to it. His speech was mainly directed against the connection between the government and banks. Having supported the bank of 1816, and proposed its recharter for a short period in 1834, he gave his reasons for his course on those occasions, and for his present opposition to a reünion with the banks. He declared in 1816, that, as a new question, he would oppose the bank; and that he yielded to the necessity of the case, growing out of the long established connection between the government and the banking system. So long as the government received and paid away bank notes as money, it was bound to regulate their value, and had no alternative but the establishment of a national bank. In 1834, his object, as expressly avowed, in renewing it for a short period, was to use the bank to break the connection *gradually*, in order to avert the catastrophe which had now happened, and which he then clearly perceived. But the connection had been broken by operation of law; the question now was an open one; and he was for the first time free to choose his course.

Mr. C. gave several reasons for a separation between the government and all banks; in the course of which he mentioned the tariffs of 1824 and 1828, as among the causes which had led to the existing state of things. The high duties had filled the treasury with surpluses which became the source of extravagant expenditures. The banks had to discount and issue freely to enable the merchants to pay their duty bonds, as well as to meet the vastly increased expenditures of the government. The act of 1828 contributed still farther to the expansion, by turning the exchange with England in favor of this country. In consequence of the high duties, many articles formerly received in exchange for our exports, were excluded, and their value came back to us in gold and silver, to purchase similar articles at the north. This first gave that western direction to the precious metals, the revulsive return of which had been followed by so many disasters.

His reasons against a reünion with banks were these: (1.) The connection had a pernicious influence over the bank currency. It led to the expansion and contraction which experience had shown to be incident to bank notes as a currency; and it tended to disturb the stability and uniformity of value which were essential to a sound currency. (2.) This connection gave a preference of one portion of citizens over another, which was neither fair, equal, or consistent with the spirit of our insti

tutions. The receiving and paying away their notes as cash, and the use of the public money, was a source of immense profit to the banks. (3.) We had reached a new era with regard to these institutions. The year 1833 marked the commencement of this era. That extraordinary man who had the power of imprinting his own feelings on the community, then commenced his hostile attacks, the effects of which would not terminate until there should be a separation between the government and the banks.

But more must be done, said Mr. C., than reorganizing the treasury. Under the resolution of 1816, bank notes would again be received if the banks should resume specie payments. The legal, as well as the actual connection, must be severed. To effect this without a shock, he proposed to do it gradually. He would, therefore, at the proper time, offer an amendment to the bill, to modify the resolution of 1816, providing that, after the 1st of January, 1838, three-fourths of all government dues might be received in the notes of specie-paying banks; after the 1st of January, 1839, one-half; after the 1st of January, 1840, one-fourth; and after the 1st of January, 1841, nothing but specie, and such bills, notes, or other paper issued by authority of the government.

He was also for adopting some remedial measure to ease off the pressure while the process was going through. The government should make as little demand as possible on the specie market, so as to throw no impediment in the way of the resumption of specie payments. In order to this, the treasury needed a paper to perform the functions of a paper circulation. This want would be supplied by the treasury notes, which ought therefore to bear no interest.

Mr. C. said we had arrived at a remarkable era in our political history. The days of legislative and executive encroachments, of tariffs and surpluses, of bank and public debt, and extravagant expenditure, were past for the present; and he would seize the opportunity thoroughly to reform the government, moving off under the state rights banner in the direction in which he had so long moved. He passed an eloquent eulogium upon his favorite theory of state sovereignty, concluding thus:

"I look, sir, with pride to the wise and noble bearing of the little state rights party, of which it is my pride to be a member, throughout the eventful period through which the country has passed since 1824. Experience already bears testimony to their patriotism, firmness, and sagacity, and history will do it justice. In that year, as I have stated, the tariff system triumphed in the councils of the nation. We saw its disastrous political bearings—foresaw its surpluses and the extravagances to which it would lead—we rallied on the election of the late president to arrest it through the influence of the executive department of the

government. In this we failed. We then fell back upon the rights and sovereignty of the states, and by the action of a small but gallant state, and through the potency of its interposition, we brought the system to the ground, sustained as it was by the opposition and the administration, and by the whole power and patronage of the government. The pernicious overflow of the treasury, of which it was the parent, could not be arrested at once. The surplus was seized on by the executive, and by its control over the banks, became the fruitful source of executive influence and encroachment. Without hesitation, we joined our old opponents on the tariff question, but under our own flag, and without merging in their ranks, and made a gallant and successful war against the encroachments of the executive. That terminated, we part with our allies in peace, and move forward, lag or onward who may, to secure the fruits of our long but successful struggle, under the old republican flag of '98, which, though tattered and torn, has never yet been lowered, and, with the blessing of God, never shall be with my consent."

The bill authorizing the issue of treasury notes; the bill for adjusting the remaining claims on the late deposit banks; and the bill to extend the time of payment on merchants' revenue bonds, all passed the senate, on the 19th of September. By the last of these bills, the time of payment of the obligations given by merchants for the payment of duties on goods imported, was extended nine months.

The bill known as the sub-treasury bill, reported by Mr. Wright on the 14th, was taken up in the senate on the 19th, when Mr. Calhoun offered the amendment of which he gave notice at the time of his speech on the bill to authorize the issue of treasury notes; viz., requiring the eventual payment in specie of all moneys due to the government, familiarly called, "the specie clause." This amendment was debated by Messrs. Niles, Benton, Walker, Calhoun, and Buchanan, in support of it; and Messrs. Tallmadge, Clay, Webster, King, of Georgia, and Preston, in opposition. The amendment was adopted, on the 2d of October. yeas, 24; nays, 23.

Mr. Tallmadge, hitherto a firm supporter of the administration, separated from his friends on this question. He deprecated this warfare against the whole credit system of the country. The whole body of the state banks did not merit the war now declared against them: the state bank deposit system had not failed; and in proof of the fact, he referred to the assurances of the late president and the present incumbent, and to the reiterated declarations of the secretary of the treasury. He maintained that the present crisis was only an exception to a general rule; and that, if the government itself had not entered into measures destructive of public confidence, this crisis would not have occurred. It

was aided also by the manner in which the secretary of the treasury had carried the deposit law into execution—making transfers of specie between distant places so as to create a disturbance in business affairs, and to lead to a crippling of the banks. The sub-treasury system, if adopted, would ruin the country. He mentioned a long list of evils which it would produce, and said it could not be carried into effect in New York.

Mr. King, of Georgia, also formerly a supporter of Gen. Jackson, spoke at great length against the measure. As he did not like either the sub-treasury or the state bank system, but wished time to digest a better, he moved the postponement of the whole subject to the first Monday in December next.

There were other members of both houses who, like Messrs. Tallmadge and King, had separated from their friends of the administration party on financial questions, and united with the whigs, and who were called "conservatives." In the house, the number who dissented from the views of the majority on these questions, especially the sub-treasury scheme, was sufficient to defeat it. It was laid on the table, on the 14th of October, 120 to 107. Thus we see the whigs, who zealously opposed the removal of the deposits to the state banks, now unitedly opposing their removal *from* these same banks; as between them and the government officers, they preferred the former as depositories for the public moneys. And we see the administration members, with a few exceptions, adopting, as their favorite financial panacea, a measure which they had but recently regarded with the greatest disfavor.

The several bills just mentioned as having passed the senate, together with that for postponing until January 1, 1839, the deposit of the fourth instalment of the surplus revenue, and a few other acts having been passed, congress adjourned, (October 16,) to the 1st Monday of December; leaving the project of the independent treasury to be reattempted at a more auspicious season.

A large number of petitions for the abolition of slavery in the District of Columbia, and remonstrances against the annexation of Texas, were received at the extra session. A resolution was proposed to be offered by Mr. Adams, "That the power of annexing the people of any independent foreign state to this union, is a power not delegated by the constitution of the United States to their congress, or to any department of their government, but reserved to the people." But the motion being decided out of order, the resolution was not received or read.

A resolution was also offered by Mr. Wise, proposing an inquiry into the extraordinary delays and failures, and enormous expenditures which had attended the prosecution of the Seminole war in Florida. The question was not brought to a decision before the close of the session.

CHAPTER LVI.

INDEPENDENT TREASURY—AGAIN DEFEATED.—TALLMADGE'S SPEECH.—INCIDENTAL DEBATE BETWEEN CLAY, CALHOUN AND WEBSTER.—SPECIE CIRCULAR REPEALED.

THE 2d session, being the first regular session of the 25th congress, began the 4th of December, 1837. The establishment of the independent treasury was again recommended by the president; and on the 16th of January, a bill for that purpose was reported to the senate by Mr. Wright. This bill proposed the gradual collection of all revenues in specie, requiring on and after the 1st of January, 1839, the payment of one-sixth part in coin, and an additional one-sixth annually thereafter, until the 1st of January, 1844, when the whole would become thus payable. The bill was discussed with great ability at this session; being supported mainly by Messrs. Wright, Benton, and others, and opposed by Messrs. Clay, Webster, Rives and White. On the 2d of February, Mr. Rives offered a substitute, containing a provision similar to the one proposed at the preceding annual session, requiring the payment of the revenues in coin and the notes of specie paying banks issuing bills of the larger denominations only.

This scheme of finance did not appear to have increased in the public favor since the extra session. On the 6th of February, Mr. Grundy presented resolutions of the legislature of Tennessee, by one of which the senators of that state were instructed to vote against the measure proposed by the president; and believing in the right of instruction by the legislature, he should comply. Mr. Buchanan also presented resolutions of the legislature of Pennsylvania, instructing the senators and requesting the representatives from that state, to vote for the postponement of the bill to the next session. Accompanying the resolution of instructions, were numerous reasons of the senate for concurring in the same. Mr. B. also declared his intention to comply with the instructions. Mr. Wall, of New Jersey, having been instructed to vote against the bill, declared his disregard of the instructions of the legislature of his state.

The bill, before it was ordered to be engrossed, was amended by striking out what was deemed its most obnoxious section—"the specie clause," which required all revenues to be ultimately paid in gold and silver. An amendment moved by Mr. Webster, was adopted, prohibiting the secretary of the treasury from issuing any general order (as the specie circular) making any discrimination as to the funds or medium in which debts to the United States should be paid: ayes, 37; noes, 14.

The vote on the final passage of the bill in the senate, was taken the 26th of March: ayes, 27; nocs, 25. Mr. Grundy and Mr. Buchanan, friends of the bill, voted in the negative, in obedience to instructions. The vote on its passage in the same body at the extra session, was 26 to 20. In the house, the bill of the senate was reported the 27th, and laid on the table, 106 to 98.

The speeches in the senate on, and incidental to the sub-treasury bill, were among the ablest efforts of these distinguished gentlemen; and not a little interest was given to the debate by charges of political inconsistency and efforts at self-vindication.

Mr. Hubbard, of New Hampshire, had, in his speech, read approvingly from that part of the president's message which ascribed the unexpected results of the late elections to bank influence; and had undertaken to explain the result in New York. Mr. Tallmadge, who had separated from his democratic friends, and was now one of those called "conservatives," in his reply to Mr. Hubbard, vindicated the people against the charge of the president, and ascribed the result to the principles adopted by the president and his party, from the creed of a faction (called "loco-foco") which had its origin in the city of New York, in 1829. This faction, he said, was turned out of Tammany Hall in the pure days of the democratic republican party, and held meetings in the open air whenever it was necessary to take measures *to reduce the price of flour*, or to carry out any other great principle in political economy! After their principles had received the countenance of the administration, they returned to the *wigwam*, displaced the ancient sachems, and there they now illustrate their ideas of freedom of speech and free discussion, by forcible interruption of the assemblages of orderly citizens, who happen to entertain opinions on matters of public policy contrary to their own. They are now the leaders of *the party*, and the prominent candidates for executive favor. [Appendix, Note J.]

The leading feature of their creed, Mr. T. said, was THE DESTRUCTION OF THE WHOLE BANKING SYSTEM OF THE COUNTRY—THE REPEAL OF CHARTERS AND THE ABROGATION OF VESTED RIGHTS. And this was understood by the people to be the policy of the administration. Encouraged by their successful war on the bank of the United States, they had commenced a ruthless warfare against the state banks; not thinking that they might not be able to bring the same force into the field in the one case as in the other. They seemed to have forgotten that they had during the first war, persuaded the people that there were monstrous evils connected with the one bank, and equal benefits to be derived from the others; that they had assured the people, that the state institutions could perform for the government all that had been done by the national bank, and could give even a "better currency."

One evidence of the meditated destruction of the state banks by the administration, was, that the proceedings of the meetings of the loco-focos in the great cities, where resolutions were adopted against the whole banking system, and in favor of an exclusive metallic currency, had been responded to by men in high official stations, and their responses were perfectly satisfactory. With this high sanction, these wild doctrines began to spread. Many changed their opinions; others adopted this radical creed, because it was approved by those who held the reins of party, and had the power of party dispensation. Another evidence of the prevalence of this radical spirit was seen in the treatment of the subject of suspension of specie payments. By the law of New York, (the old safety-fund law,) when a bank did not for ten days redeem its notes in specie, the chancellor was directed to issue his injunction, close its doors, appoint a receiver to collect its dues and pay its debts. There was then due the banks from the people about \$70,000,000. The collection of this amount would have produced general distress and ruin. The legislature being in session, a law was forthwith passed, almost unanimously, to suspend for a year the forfeiture of the charters which had been incurred by their failing to redeem. This act had been openly denounced by public meetings in the city of New York, composed of persons claiming to be the exclusive friends of the administration. And this denunciation had been reiterated by the official organ of the government here.

And why was the act denounced? Because, without it, the banks would have all been prostrated, and we should have been at once brought to the "golden age" which had been so long desired. The great interests of the country would have been sacrificed; but what of that? We should have had the "constitutional currency"—"a hard money government"—"a successful experiment!" The suspension act was not a boon to the banks; it was a favor to the people, while it saved the bank charters from forfeiture. Other states passed similar laws; and thus were frustrated the designs of those who deemed the suspension of specie payments the proper occasion to carry out their favorite plan of breaking down the whole banking system of the states. He did not say that the president entertained this design. But the people judged him by his measures. He convened congress for an extra session. The message was delivered; and the people believed that the administration intended to destroy the banks. This belief had been confirmed by the result.

Farther: The banks having been saved by legislative enactments, the president recommended "a uniform law concerning bankruptcies of corporations, and other bankers," as a measure "fully authorized by the

constitution." What would have been the effect of such a law? Every bank in the union would have been handed over to commissioners, and its concerns closed up; for all had suspended, and would of course have come within its provisions: and the effect would have been ruin from one extremity of the union to the other. Fortunately, congress did not adopt the recommendation, although it was urged with great power by one of the most prominent friends of the administration, (Mr. Benton.) This subject was not new to the president. In 1826, standing on that floor, he maintained on this subject the same principles which he (Mr. T.) was now endeavoring to maintain. On the discussion of the bankrupt bill, then before the senate, Mr. Van Buren, as senator, opposed its application to banking incorporations, "as an odious exercise of power not granted by the constitution." But in 1837, as president, he proposes "a uniform law concerning bankruptcies of corporations and other bankers," as a measure "fully authorized by the constitution."

The people foresaw what would have been the effect of the proposed bankrupt law; and they saw the effect of the sub-treasury scheme. They knew both to be equally fatal. They saw, by the official organ, after it was defeated in the house, at the extra session, that it was to be again forced upon congress. Its adoption would have prevented the resumption of specie payments; or, if the banks should resume, it would compel them to stop again.

But there was another cause of the results of the late election. The people saw the treatment received by those who opposed these measures. They saw some of their representatives here, pursuing the straightforward track of principle, refusing to turn about at the word of command, and opposing the measure which the whole party, with Gen. Jackson at their head, opposed in 1834, and which the official organ then pronounced "disorganizing and revolutionary." They saw all this; and they saw also that *for* this adherence to principle, their representatives were denounced and proscribed by this same official organ of the administration! They saw established at the seat of government, by the discipline of party, a despotism, the most perfect on earth—the DESPOTISM OF OPINION!

This system of dictation and proscription, Mr. T. said, commenced during Gen. Jackson's second term. He would not tolerate a difference of opinion on any subject in which his feelings were enlisted. It might have been owing to the infirmity of age. Witness the distribution bill, the specie circular, and the currency bill. In these measures, the great body of his friends in both houses were opposed to him, still, the official organ maintained the executive will, and denounced the action and opinions of those who constituted the legislative branch of the government.

The present executive had promised to "follow in the footsteps of his illustrious predecessor." This sub-treasury scheme was the darling project of the late president; and it was presumed that it was now brought forward in pursuance of this pledge.

Mr. T. said his colleague, (Mr. Wright,) had spoken of that portion of the friends of the administration who opposed this scheme, as a small party, and intimated that they ought to give up their opinions to the majority. That small party were maintaining the principles which the whole party recently maintained; and the difference between them being a matter of principle, it could not be compromised. The opinions of his colleague had, in all matters in difference, always coincided with those of the executive. And, had the executive recommended the state bank deposit system, they would have seen his colleague, with himself, (Mr. T.,) and his friend from Virginia (Mr. Rives) by his side, leading on his faithful troops; and instead of the *golden* banner under which he was now fighting against the institutions of the states, and the rights of the states, he would raise aloft the stars and stripes of his country, the emblem of those rights; and under that sign he would have conquered.

Under the present system of party discipline and executive intimidation, Mr. T. said, the liberty of speech and of the press had been virtually abrogated. The executive department had become too powerful for the legislative branch. The great apprehension of the framers of the constitution was from the legislative power. But the theory of the constitution had, in the short space of half a century, been reversed. The executive department had become so formidable as to overawe the legislature, and dictate to it the measures which the president himself was to execute. Add to that strength the powers of a treasury bank, which were contained in the bill, and there would have been given all that could define a despot.

From this sketch of the speech of Mr. Tallmadge are seen, both the principles of the "conservatives," and the feelings which they entertained towards the party they had abandoned. Though comparatively small in numbers, they contributed much to the overthrow of that party at the succeeding presidential election.

Mr. Calhoun, who had, since the removal of the deposits, or during most of the period of the "war upon the currency," as it was called, coöperated with the opposition, again united with the administration, and advocated the sub-treasury project, as a plan for separating the government from all banks. In the course of his speech, he mentioned the fact that the opponents of this scheme, now supported the state bank system which a few years before they opposed. He said, however, that he made no charge of inconsistency, being aware that, as a national bank

was out of the question, they were compelled to choose between the state bank plan and that of the independent treasury.

Mr. Clay, in his speech a few days afterwards, alluded to a late letter of Mr. Calhoun to a dinner committee in his own state, in which he had given his reasons for having joined the opposition, and reunited with the administration party. State interposition (meaning threatened nullification) had, the letter said, overthrown the protective tariff and the American system, and put a stop to congressional usurpation; and, by a union with their old opponents, the national republicans, (or whigs,) they had effectually brought down the power of the executive. These objects effected, he had found it necessary to abandon his late allies, whose financial as well as general policy, was hostile to the interests of the south; and "the southern division of the administration party must reoccupy the old state rights ground." Mr. Clay admitted that they had denounced the pet bank system; they did so still; but it did not follow that they must accept a worse one. The senator had said that the present bill would take the public moneys out of the hands of the executive, and place them in the hands of the law. It did no such thing. It proposed by law to confirm them in the custody of the executive, and to convey to him new and enormous powers of control over them. Every custodary of the public funds would be a creature of the executive, dependent upon his breath, and subject to removal by the same breath, whenever the executive, from caprice, from tyranny, or from party motives, should choose to order it. What safety was there for the public money in the hands of a hundred such dependent subordinates?

Mr. Clay remarked pretty severely upon the recent secession of Mr. Calhoun from the whig ranks. He said: "The arduous contest in which we were so long engaged, was about to terminate in a glorious victory. The very object for which the alliance was formed, was about to be accomplished. At this critical moment the senator left us; he left us for the very purpose of preventing the success of the common cause. * * * He left us, as he tells us in the Edgefield letter, because the victory which our common arms were about to achieve, was not to enure to him and his party, but exclusively to the benefit of his allies and their cause. I thought that, actuated by patriotism, (that noblest of human virtues,) we had been contending together for our common country, for her violated rights, her threatened liberties, her prostrate constitution. Never did I suppose that personal or party considerations entered into our views. Whether, if victory shall ever again be about to perch upon the standard of the spoils party, (the denomination which the senator has so often given to his present allies,) he will not feel himself constrained, by the principles upon which he has

acted, to leave them because it may not enure to the benefit of himself and his party, I leave to be adjusted between themselves."

Mr. Calhoun, in reply, said, the leading charge of the senator was, that he had gone over to the other party. If, by this vague expression, he meant to imply that he had either changed his opinion, abandoned his principles, or deserted his party, he repelled the charge. [The secretary of the senate, at the request of Mr. C., read extracts from his speech on the removal of the deposits in 1834, showing his position at that time, as follows:] "If this was a question of bank or no bank; if it involved the existence of the banking system, it would indeed be a great question—one of the first magnitude; and with my present impression, long entertained, and daily increasing, I would hesitate, long hesitate, before I would be found under the banner of the system. I have great doubts, (if doubts they may be called,) as to the soundness and tendency of the whole system, in all its modifications. * * * * What, then, is the real question which now agitates the country? I answer, it is a struggle between the executive and legislative departments of the government; a struggle, not in relation to the existence of the bank, but which, congress or the president, should have power to create a bank, and the consequent control over the currency of the country. This is the real question."

Mr. Calhoun at that time considered this league, or association of states banks, created by the executive, and bound together by its influence, as being, "to all intents and purposes, a bank of the United States an executive bank of the United States, as distinguished from that of congress;" —and said: "However it might fail to perform satisfactorily the functions of the bank of the United States as incorporated by law, it would outstrip it, far outstrip it, in all its dangerous qualities, in extending the power, the influence, and the corruption of the government. * * * * So long as the question is one between a bank of the United States incorporated by congress, and the system of banks created by the will of the executive, it is an insult to the understanding to discourse on the pernicious tendency and unconstitutionality of the bank of the United States. To bring up that question fairly, you must go one step farther—you must divorce the government and the banking system. You must neither receive nor pay away bank notes; you must go back to the old system of the strong box, and of gold and silver. If you have a right to treat bank notes as money, by receiving them in your dues and paying them away to creditors, you have a right to create a bank. * * * * I repeat, you must divorce the government entirely from the banking system, or, if not, you are bound to incorporate a bank as the only safe and efficient means of giving stability and uniformity to

the currency." These, Mr. C. said, were his sentiments delivered four years since, on the question of the removal of the deposits; and he asked if there was any thing in them contradictory to his present opinions or course.

Mr. C. also vindicated the consistency of his course in relation to the incorporation of a national bank in 1834. The currency was diseased; the circulation was great, and must still farther increase. He stood almost alone. One party supported the league of state banks; the other the United States bank, the charter of which Mr. Webster proposed to renew for six years. From his speech on that question, the secretary was requested to read some extracts, of which the following is a part: "After a full survey of the whole subject, I see none, I can conjecture no means of extricating the country from its present danger, and to arrest its farther increase, but a bank; the agency of which, in some form, or under some authority is indispensable. The country has been brought into the present diseased state of the currency by banks, and must be extricated by their agency. We must, in a word, use a bank to *unbank* the banks, to the extent that may be necessary to restore a safe and stable currency—just as we apply snow to a frozen limb to restore vitality and circulation, or hold up a burn to the flame to extract the inflammation. All must see that it is impossible to suppress the banking system at once. * * * A new and a safe system must gradually grow up under, and replace the old."

Mr. C. then proceeded to show that Mr. Clay had put a forced and wrong construction on his language in the Edgefield letter, in which he gave as a reason for leaving the national republican party, "that the victory would enure not to us, but exclusively to the benefit of our allies and their cause." The motive was stated in the same paragraph: "The first fruits of the victory would have been an overshadowing national bank, with an immense capital, not less than from fifty to a hundred millions, which would have centralized the currency and exchanges, and with them the commerce and capital of the country, in whatever section the head of the institution might be placed." It was manifest that the expression upon which the senator fixed, alluded, not to power or place, but to principle and policy. Mr. C. continued: "But we find the senator very charitably leaving to time to disclose my motives for going over! I, who have changed no opinion, abandoned no principle, deserted no party; I, who have stood still and maintained my ground against every difficulty, to be told that it is left to time to disclose my motive! The imputation sinks to the earth with the groundless charge on which it rests. I stamp it with scorn in the dust. I pick up the dart which fell harmless at my feet. I hurl it back. What the senator charges on me

unjustly, *he has actually done*. He went over on a memorable occasion, and did not leave it to time to disclose his motive."

Mr. C. closed his speech with a declaration of his present political position, and a review of his long public career, which had then been continuous for twenty-six years.

Mr. Clay immediately replied. Having answered several charges of misrepresentation, he proceeds: "I am also accused of misrepresenting the senator in respect to the reception of redeemable bank notes for the term of six years, as provided for in the bill. He thinks it entirely constitutional to make such a limited arrangement, whilst it would be wholly inadmissible to continue for any indefinite time to receive such notes. The complaint is that I did not state the circumstances, conditions, and qualifications under which he proposes this temporary reception of bank notes. I do not think that they can vary, in the smallest degree, the question of power. If the constitution prohibits the reception of bank notes, the prohibition extends as well to a term of six years as to any indefinite time.

"He argued that we are so connected with banks, that we must ease off gradually, and not suddenly discontinue the use of paper. The senator commenced his speech at the extra session, by announcing that there was a total rupture between the government and the banks by the suspension of specie payments. The disconnection still exists in fact and in law. The bill which the senator so warmly espouses makes a contingent revival of the connection. In 1816, also, the connection had altogether ceased in point of law. Then the senator proposed a bank of the United States. In both cases, if I understand him, he proceeds on the ground of practical inconvenience. Now, sir, I cannot for my life concur in making the constitution this nose of wax. * * * The doctrine of the senator in 1816 was, as he now states it, that bank notes being in fact received by the executive, although contrary to law, it was constitutional to create a bank of the United States. And in 1834, finding that bank which was constitutional in its inception, but had become unconstitutional in its progress, yet in its existence, it was quite constitutional to propose, as the senator did, to continue it twelve years longer!"

In reply to Mr. Calhoun's remark that "state interposition" had overthrown the protective tariff, Mr. Clay said: "State interposition!—that is, as I understand the senator, nullification, he asserts, overthrew the tariff and the American system. * * * Nullification, Mr. President, overthrew the protective policy! No, sir. The compromise was not extorted by the terror of nullification. Among other more important motives that influenced its passage, it was a compa-

sionate concession to the imprudence and impotency of nullification !
* * * At the commencement of the session of 1832, the senator from South Carolina was in any condition other than that of dictating terms. Those of us who were then here must recollect well his haggard looks and his anxious, depressed countenance. A highly estimable friend of mine, Mr. J. M. Clayton, of Delaware, alluding to the possibility of a rupture with South Carolina, and to the declarations of president Jackson with respect to certain distinguished individuals whom he had denounced and proscribed, said to me on more than one occasion, referring to the senator from South Carolina and some of his colleagues : ' They are clever fellows, and it will never do to let old Jackson hang them.' Sir, this disclosure is extorted from me by the senator."

Mr. Webster also came into collision with Mr. Calhoun. The latter had denied the power of congress to make general deposits of public revenue in banks, or to authorize the reception of anything but gold and silver in debts and dues to the government. Mr. W. referred to Mr. Madison, who, in opposing the first bank charter in 1791, argued that a bank of the United States was not necessary to government as a depository of public moneys, because its use could be supplied by other banks. And in 1800, congress made it the duty of collectors of customs to deposit bonds for duties in the bank and its branches for collection. In 1811, and 1816, the same power was recognized ; as also in the deposit bill of 1836 ; the main object of which was to regulate deposits in the state banks. The same principle was incorporated in the bank charter of 1816, which was reported by the gentleman himself ; and it passed without objection from any quarter. Several other cases were referred to in which Mr. Calhoun had approved the deposit of money in banks. These and other allusions to public acts of Mr. Calhoun, drew from him a retort to the charge of inconsistency.

Mr. Calhoun adverted to the course of Mr. Webster on the tariff question. Its history rose subsequent to the late war with Great Britain. The senator's associate in this attack (Mr. Clay) was its leading supporter and author. The senator was at first opposed to the system. In 1820, in a speech delivered in Faneuil Hall, he questioned its constitutionality, and denounced its inequality and oppression. He then held the very sentiments which he (Mr. C.) had so often expressed on that floor. In 1824, he delivered a speech in the other house, in reply to Mr. Clay, in which he again denounced the system, in which he completely demolished the arguments of his opponent. But a few months after, the presidential election took place ; Mr. Adams was elected by the coöperation of the author of the American system and the senator.

New political combinations were formed, and resulted in an alliance between the east and the west, of which that system formed the basis. A new light burst in on the senator. A sudden thought struck him; but not quite as disinterested as that of the German sentimentalist. He made a complete summerset, heels over head; went clear over; deserted the free-trade side in a twinkling, and joined the restrictive policy; and then cried out that he could no longer act with me, whom he left standing where he had just stood, because I was too sectional! With a few contortions and slight choking, he even gulped down, a few years after, the bill of abomination—the tariff of 1828.

But he had done what was still more surprising. Oppression under the tariff of 1828 had become intolerable to the south. Something must be done promptly. But one hope was left short of revolution, and that was in the states themselves, in their sovereign capacities as parties to the constitutional compact. Fortunately one of the members of the union was bold enough to interpose her sovereign authority, and to declare the protective tariff unconstitutional, and therefore null and void within her limits. We all remember what followed. The proclamation was issued; and the war message and force bill succeeded: and the state armed to maintain her constitutional rights. How did the senator act in this fearful crisis? A sudden thought again struck him. He again, in a twinkling, forgot the past, rushed over into the arms of power, and became the champion of the most violent measures to enforce laws which he had pronounced unconstitutional and oppressive.

Mr. Calhoun then proceeded to defend his own course, and to show that it had not been sectional. While the senator from Massachusetts had not given a vote to promote the interests of the south, he (Mr. Calhoun) had never withheld his support from measures calculated to promote the interests of the north, except the tariff and certain appropriations, which he deemed unconstitutional; and he mentioned his constant support of the navy; his resistance to the embargoes, non-importation and non-intercourse acts; his generous course in support of manufactures that sprung up during the war, in which his friends thought he had gone too far; to the liberal terms on which the tariff controversy had been settled, and the fidelity with which he had adhered to it; and the system of fortifications for the defense of our harbors which he had projected and commenced, and which were so important to the two great interests of commerce and navigation, in which Mr. Webster's section had so deep a stake. He had also been quite as liberal to the west as the senator; and, passing over other instances, he mentioned his proposition to cede public lands to the new states. He said he had intended to compare their conduct in relation to the late war with Great Britain, but he would not recur to these by-gone events, unless the senator should provoke him to it.

Mr. Webster, in reply, asked, why the gentleman had alluded to his votes or opinions at all, respecting the war, unless he had something to say. Did he wish to leave an impression that something had been done or said that was incapable of defense or justification? He would leave an impression that he had opposed it. How? He was not in congress when the war was declared, nor in public life anywhere. He came into congress during the war. Did he oppose it? Let the gentleman look to the journals, or tax his memory. Let him bring up any thing showing want of loyalty or fidelity to the country. He did not agree to all that was proposed, nor did the gentleman. As a private individual, he certainly did not think well of the embargo and the restrictive measures which preceded the war; and the senator was of the same opinion.

When he came to congress, he found the gentleman a leading member of the house. One of the first measures of magnitude was Mr. Dallas' proposition for a bank. It was a war measure—urged as being absolutely necessary to carry on the war. The member from South Carolina opposed it. He (Mr. W.) agreed with him. It was a mere paper bank—a mere machine for fabricating irredeemable paper. He made a speech against it which had often been quoted. If he had been seduced into error, the gentleman himself, who took the lead against the measure, was his seducer. The gentleman had also adverted to the navy. He had said, and said truly, that, at the commencement of the war, the navy was unpopular. It was so with the gentleman's friends who then controlled the politics of the country. But he said he differed with his friends, and advocated the navy. And, said Mr. W., "I commend him for it. He showed his wisdom. That gallant little navy soon fought itself into favor, and showed that no man who had placed reliance on it, had been disappointed. In this, I was exactly of the same opinion with the honorable gentleman."

In reply to the charge of Mr. Calhoun, that Mr. Webster had also proved himself unfriendly to the south, by his not voting his resolutions on slavery, Mr. W. said, if he was for that to be regarded as an enemy to the south, be it so. He could not purchase favor by the sacrifice of conscientious convictions. The principal resolution declared, that congress had plighted its faith not to interfere, either with slavery or the slave trade, in the District of Columbia. This he did not believe; therefore he could not vote for the proposition.

In regard to the tariff, Mr. W. said: "He charges me with inconsistency. I will state the facts. Let us begin at the beginning. In 1816, I voted against the tariff law which then passed. In 1824, I again voted against the tariff law which was then proposed, and which passed. A majority of New England votes, in 1824, was against the tariff system. The bill received but one vote from Massachusetts; but it passed.

The policy was established; New England acquiesced in it; conformed her business and pursuits to it; embarked her capital and employed her labor, in manufactures; and I certainly admit that, from that time, I have felt bound to support interests thus called into being and into importance, by the settled policy of the government. I have stated this often here, and often elsewhere. The ground is defensible, and I maintain it. * * * What is there in all this for the gentleman to complain of? Would he have us always oppose the policy adopted by the country on a great question? Would he have minorities never submit to the will of majorities?

"I remember to have said at the meeting in Faneuil hall, that protection appeared to be regarded as incidental to revenue, and the incidents could not be carried fairly above the principal: in other words, that duties ought not to be laid for the mere object of protection. I believe that, if the power be inferred only from the revenue power, the protection could only be incidental. But I have said in this place before, and I repeat, that Mr. Madison's publication after that period, and his declaration that the convention did intend to grant the power of protection, under the *commercial* clause, placed the subject in a new and clear light. I will add, sir, that a paper drawn up by Dr. Franklin, and read by him to a circle of friends in Philadelphia, on the eve of the assembling of the convention, respecting the powers which the proposed new government ought to possess, shows, perfectly plain, that, in regulating commerce, it was expected congress would adopt a course which should, to some degree, protect the manufactures of the north. He certainly went into the convention himself under that conviction."

Mr. W. adverted to a declaration of Mr. C., that they had always differed on great constitutional questions. He said: "Sir, this is astounding. * * * He means that he has always given to the constitution a construction more limited, better guarded, less favorable to the extension of the powers of this government, than that which I have given to it. He has always interpreted it according to the strict doctrine of state rights! * * * Sir, is there a man in my hearing, . . . who ever heard, supposed, or dreamed, that the honorable member belonged to the state rights party before the year 1825? * * * The truth is, sir, the honorable gentleman had acted a very important and useful part during the war. In the fall of 1815, the 14th congress assembled. It was full of ability; and the gentleman stood high among its distinguished members. . . . During that congress he took a decided lead in all those great measures which he has since so often denounced as unconstitutional and oppressive—the bank, the tariff, and internal improvements. . . . He was a full length ahead of all others in mea

asures which were national, and which required a broad and liberal construction of the constitution."

The tariff, Mr. W. said, was a South Carolina measure, as the votes would show, and was intended for the benefit of South Carolina interests. Even the *minimum*, that subject of so much wrathful rhetoric, was of southern origin, and had a South Carolina parentage. And next, as to the doctrine of internal improvements, that other usurpation, that other oppression, which had come so near to justifying violent abruption of the government, and scattering the union to the four winds. Said Mr. W.: "It is an indisputable truth, that he is himself the man—the *ipse* that first brought forward, in congress, a scheme of general internal improvement, at the expense, and under the authority of this government." The bank was chartered in 1816. For the privilege of the charter, the proprietors paid one and a half million dollars; and the government took seven millions of the stock of the bank. Early in the next session, December, 1816, the gentleman moved to set apart this bonus and the bank stock as a permanent fund for internal improvements; and was chairman of the committee, and reported a bill accordingly. This bill went the whole doctrine, at a single jump, and announced internal improvement as one of the objects of this government, on a grand and systematic plan. He went even beyond Timothy Pickering, who, having offered an amendment requiring the money "to be applied in constructing such roads, canals, &c., in the several states, as congress might direct, with the assent of the states," the gentleman immediately moved to strike out the words, "*with the assent of the states.*" He advocated both the policy of internal improvement, and the power of congress over the subject: and the bill passed the house with the amendment of Mr. Pickering with these words retained. [Note K.]

The debate did not end here. We cannot, however, extend this sketch, which has already exceeded the limits intended. But as few American statesmen have ever attained a higher eminence, or borne a more important part in the government, than Clay, Calhoun, and Webster, any political history which did not properly present their principles and acts during their long public career, would, it was thought, be materially defective.

A joint resolution virtually repealing the specie circular of July, 1836, was passed, May 31, 1838, by large majorities in both houses, and became a law by the approval of the president. The resolution declared, "That it shall not be lawful for the secretary of the treasury to make or to continue in force, any general order which shall create any difference between the different branches of revenue, as to the money or medium of payment in which debts or dues, accruing to the United States, may

be paid." At the time of issuing the circular, in 1836, no treasury notes were in existence; consequently, at the time of passing the above resolution, not even these notes, previously issued, were receivable for public lands. By this act, all payments to the government might be made either in specie, treasury notes, or the bills of specie paying banks. By acts of April and June, 1836, however, no bank notes of any denomination less than twenty dollars, nor those of any bank issuing notes or bills of a less denomination than five dollars, were to be received. A circular to this effect was issued from the treasury department to all receivers and collectors of public money, the day after the passage of the resolution above mentioned.

CHAPTER LVII.

ANNEXATION OF TEXAS.—SPEECHES OF PRESTON AND ADAMS.—PROPOSITION WITHDRAWN BY TEXAS.

THE recognition of the independence of Texas at the last session of congress, (1836-37,) and the application of that republic for annexation to the United States, furnished new aliment to the anti-slavery excitement. To the petitions for the abolition of slavery in the District of Columbia, were now added remonstrances against the annexation of Texas. Resolutions were passed by the legislatures of several states, to the same effect. In some states, legislative resolutions were adopted in favor of annexation.

Mr. Preston, senator from South Carolina, said these memorials were known to come from a particular quarter, and from a particular class of politico-philanthropists. He therefore gave notice, that he should feel himself compelled to introduce a proposition, at an early day, for the annexation of Texas to the union. Accordingly, on the 4th of January, 1838, he offered the following:

"Whereas, the just and true boundary of the United States under the treaty of Louisiana, extended on the south-west to the Rio Grande del Norte, which river continued to be the boundary line until the territory west of the Sabine was surrendered to Spain by the treaty of 1819;

"And whereas such surrender of a portion of the territory of the United States is of evil precedent and doubtful constitutionality;

"And whereas many weighty considerations of policy make it expedient to reëstablish the said true boundary, and to reënnex to the United

States the territory occupied by the state of Texas, with the consent of the said state :

"Be it therefore resolved, That, with the consent of the said state previously had, and whenever it can be effected consistently with the faith and treaty stipulations of the United States, it is desirable and expedient to reënnex the said territory to the United States."

On the 24th of April, 1838, the resolution was taken up for consideration, and supported by a speech, which, though not devoid of argument, is most valuable for the historical information which it contains :

Mr. Preston said his proposition was not indecorous or presumptuous, since the lead had been given by Texas herself. The question of annexation, on certain terms, had been submitted to the people of the republic, and decided in the affirmative ; and a negotiation had been proposed for effecting the object. Nor did his resolution give just cause of offense to Mexico. Its terms guarded our relations with that republic. Our intercourse with Mexico should be characterized by fair dealing, on account of her unfortunate condition, resulting from a long continued series of intestine dissensions. As long, therefore, as she should attempt to assert her pretensions by actual force, or as long as there was a reasonable prospect that she had the power and the will to resubjugate Texas, he would not interfere. He believed that period had already passed. In this opinion he differed, perhaps, from the executive. The negotiation had been declined by the secretary of state, because it would involve our relations with Mexico. Admitting that the executive had more extensive and exact information upon this question than he (Mr. P.) could have ; the resolution therefore expressed an opinion in favor of annexation only when it could be done without disturbing our relations with Mexico.

The acquisition of territory, Mr. P. said, had heretofore been effected by treaty ; and this mode of proceeding had been proposed by the Texan minister, Gen. Hunt. But he believed it would comport more with the importance of the measure, that both branches of the government should concur ; the legislature expressing a previous opinion ; which being done, all difficulties might be avoided by a treaty tripartite, between Mexico, Texas, and the United States, in which the consent and confirmation of Mexico (for a pecuniary consideration, perhaps,) might be had without infringing the acknowledged independence and free agency of Texas.

Mr. P. proceeded to show that the Texan territory was once a part of the United States. In 1762, France ceded Louisiana to Spain. In 1800, Spain receded it to France. In 1804, France ceded it to the United States. The extent of the French claim, therefore, determined ours, and included Mississippi and all the territories drained by its we-

ern tributaries. It rested upon the discovery of La Salle, in 1683, who penetrated from Canada by land, descended the Mississippi, and established a few posts on its banks. Soon afterwards, endeavoring to enter the mouth of that river from the Gulf, he passed it unperceived, and sailing westward, discovered the bay of St. Bernard, now called Matagorda, whence, a short distance in the interior, he established a military post on the bank of the Guadaloupe, and took possession of the country in the name of his sovereign. The western limits of the territory, enuring to the French crown by virtue of this discovery, was determined by the application of a principle recognized by European powers making settlements in America, viz. : that the dividing line should be established at a medium distance between their various settlements. At the time of La Salle's settlement, the nearest Spanish possession was a small post called Panuco, at the point where a river of that name falls into the bay of Tampico. The medium line between Panuco and the Guadaloupe was the Rio Grande, which was assumed as the true boundary between France and Spain. France asserted her claim to that boundary from 1685, the period of La Salle's discovery, up to 1762, when, by the cession of Louisiana to Spain, the countries were united and the boundaries obliterated.

Mr. P. referred to Mr. Adams' letter to Don Onis, of March, 1818 in which he recapitulated the testimony in favor of the French title. Mr. Jefferson expressed the same opinion. Messrs. Monroe and Pinckney, in 1805, in obedience to instructions from Mr. Madison, then secretary of state, asserted our claim west to the Rio Grande, in their correspondence with the Spanish commissioner. Mr. Monroe, when president, held equally strong language, through Mr. Adams, his secretary of state. Gen. Jackson entertained the same opinion.

To the testimony of these presidents, he added the authority of the senator from Kentucky. During the delay on the part of Spain, in ratifying the treaty of 1819, that senator, then in the other house, taking the same view of the treaty which he (Mr. P.) was now urging—that it was a cession of a part of our territory to which the treaty-making power was incompetent, offered the following resolutions :

"1. *Resolved*, That the constitution of the United States vests in congress no power to dispose of the territory belonging to them ; and that no treaty purporting to alienate any portion thereof is valid, without the concurrence of congress.

"2. *Resolved*, That the equivalent proposed to be given by Spain to the United States, for that part of Louisiana west of the Sabine, was inadequate, and that it would be inexpedient to make a transfer thereof to any foreign power."

The author of these resolutions, in advocating them, said: "He presumed the spectacle would not be presented of questioning, in this branch of the government, our title to Texas, which had been constantly maintained by the executive for more than fifteen years past, under three successive administrations." And he said: "In the Florida treaty, it was not pretended that the object was simply a declaration of where the western line of Louisiana was; it was, on the contrary, the case of an avowed cession of territory from the United States to Spain. The whole of the correspondence manifested that the respective parties to the negotiation were not engaged so much in an inquiry where the limit of Louisiana was, as where it should be. We find various limits discussed. * * * Finally the Sabine is fixed, which neither of the parties ever contended was the ancient limit of Louisiana. * * * And the treaty itself proclaims its purpose to be a cession of the United States to Spain." Such, Mr. P. said, were the opinions of the senator in 1820, and he trusted the wisdom and patriotism which warred against that rash treaty of 1819, would now be exerted against its great and growing evils, by the reannexation of Texas.

But he took higher ground than this. Mr. Clay rested the constitutional objection upon the incompetency of the treaty-making power to alienate territory; he (Mr. P.) considered it incompetent to the whole government. The constitution vests in congress the power "to dispose of the territory or other property of the United States." This clause was inserted to give power to effect the objects for which the states had granted these lands to the general government; and the true exposition of the clause was found in our vast and wise land system. It was never dreamed that congress could dispose of the sovereignty of territory to a foreign power. The south, he said, had gone blindly into this treaty. The importance of Florida had led them precipitately into a measure by which we threw a gem away that would have bought ten Floridas. Under any circumstances, Florida would have been ours in a short time; but our impatience had induced us to purchase it by a territory ten times as large, a hundred times as fertile, and to give five millions of dollars into the bargain. He acquiesced in the past; but he proposed to seize the present fair and just occasion to remedy the mistake made in 1819; to repair, as far as possible, the evil effect of a breach of the constitution, by getting back into the union that fair and fertile province which, in an evil hour, we severed from the confederacy.

This proposition which now inflamed the public mind was not a novel policy. It was strange that a measure which had been urged for twelve years past should be met by a tempest of opposition; and *very* strange that *he* should be riding upon and directing the storm, who was first to

propose the annexation of Texas, as one of the earliest measures of his administration after he was made president. He had endeavored to repair the injury inflicted upon the country by the treaty of 1819. As secretary of state in 1819, he negotiated the treaty of transfer; in 1825, as president of the United States, he instituted a negotiation for the reānnexation. Through his secretary of state, Mr. Clay, he instructed Mr. Poinsett, minister to Mexico, to urge a negotiation for the reacquisition of Texas, and the establishment of the south-west line of the United States at the Rio Grande del Norte. Jackson and Van Buren had continued the effort; and why it had failed, it was useless now to inquire. It was certain, that president Jackson never lost sight of it, and that he continued to look to its accomplishment as one of the greatest events of his administration, to the moment when the title of Mexico was extinguished for ever by the battle of San Jacinto. [Appendix, Note L.]

Mr. P. considered the boundary line established by the treaty of 1819, as an improper one, not only depriving us of an extensive and fertile territory, but winding with "a deep indent" upon the valley of the Mississippi itself, running upon the Red river and the Arkansas. It placed a foreign nation in the rear of our Mississippi settlements, within a stone's throw of that great outlet which discharged the commerce of half the union. The mouths of the Sabine and the Mississippi were of a dangerous vicinity. The great object of the purchase of Louisiana was to remove all possible interference of foreign states in the vast commerce of the outlet of so many states. By the cession of Texas, this policy had been to a certain extent compromised. He also referred to the instructions of secretary Van Buren to Mr. Poinsett, saying: "The line proposed as the most desirable to us would constitute a most natural separation of the resources of the two nations."

Mr. P. next considered the report of a committee of the Massachusetts legislature, which said: "The committee do not believe that any power exists in any branch of this government, or in all of them united, to consent to such a union, (viz. with the *sovereign* state of Texas,) nor, indeed, does such authority pertain, as an incident of sovereignty, or otherwise, to the government, however absolute, of any nation." Both of these propositions he controverted. As to the powers of this government, the mistake of the committee laid in considering it, as to its nature and powers, a consolidated government. The states originally came together as sovereign states, having no power of reciprocal control. North Carolina and Rhode Island stood off for a time, and at length came in by the exercise of a sovereign discretion. So Missouri and other new states were fully organized and perfect, and self-governed

before they came in ; and so might Texas be admitted. The power to admit new states was expressly given ; and by the very terms of the grant they must be *states* before they were admitted. The power granted to congress was, not to *create*, but to *admit* new states ; the states created themselves. Missouri and Michigan had done so, and exercised all the functions of self-government, while congress deliberated whether they should be admitted. In the mean time, the territorial organization was abrogated, and the laws of congress superseded.

After some farther discussion of the question Mr. P. said : " There is no point of view in which the proposition for annexation can be considered, that any serious obstacle in point of form presents itself. If this government be a confederation of states, then it is proposed to add another state to the confederation. If this government be a consolidation, then it is proposed to add to it additional territory and population. That we can annex, and afterwards admit, the cases of Florida and Louisiana prove. We can therefore deal with the people of Texas for the territory of Texas ; and the people can be secured in the rights and privileges of the constitution, as were the subjects of Spain and France."

Having considered these "formal difficulties," he next adverted to those which exercised a more decisive influence over that portion of the union which was offering such determined opposition to this measure. He regarded this joint movement of the northern states as "a combination conceived in a spirit of hostility towards one section, for the purpose of aggrandizing the political power of another." It could not fail to make a deep and mournful impression upon the south, that the opposition to the proposed measure was contemporaneous with the recent excitement on the subject of abolition. He said : " All men, of all parties, from all sections, in and out of office, Mr. Adams most conspicuous amongst them, desired the acquisition of Texas, until the clamorous interference in the affairs of the south was caught up in New England from Old England. Then, for the first time, objections were made to this measure ; then those very statesmen who were anxious for the acquisition of Texas for their glory, found out that it would subvert the constitution and ruin the country. * * * You are called upon to declare that the southern portion of your confederacy, by reason of certain domestic institutions, in the judgment of your petitioners wicked and detestable, is to be excluded from some part of the benefits of this government. The assumption is equally insulting to the feelings and derogatory to the constitutional rights of the south. * * * We neither can nor ought—I say it, Mr. President, in no light mood or wrong temper—we neither can nor ought to continue in political union on such terms."

Mr. P. spoke of the diminution of the comparative political power of the south. The sceptre, he said, had passed from them, and forever. All that was left them was to protect themselves. All they asked was some reasonable check upon an acknowledged power; some approach to equipoise in the senate. All the power they coveted was the power to resist incursions. He suspected that the idea of checking the extension of domestic slavery was but a hollow and hypocritical pretext to cover political designs. He did not think the extension of slave territory and the increase of the slaveholding population, would increase the number of slaves. Instead of this, annexation would rather prevent such increase. * * * We stand entirely on the defensive; we desire *safety*, not power, and we must have it. Give us safety and repose, by doing what all your most trusted and distinguished statesmen have been so long anxious to do. Give them to us by restoring what you wantonly and unconstitutionally deprived us of. Give us this just and humble boon, by repairing the violated integrity of your territory, by augmenting your wealth and power, by extending the empire of law, liberty and Christianity."

In the house of representatives, on the 12th of December, 1837, Mr. Adams presented a large number of memorials against the annexation of Texas, and moved that these and all others presented by himself and his colleagues at the extra session, be referred to a select committee. His colleagues had assented to approve the motion. Mr. Howard, of Maryland, having moved their reference to the committee on foreign affairs, Mr. Adams expressed his views on the question of annexation in a manner which subjected him to several interruptions.

Mr. Adams said he and his colleagues viewed this question as one which involved even the integrity of the union—a question of the most deep, abiding and vital interest to the whole American nation. "For," said he, "in the face of this house, and in the face of Heaven, I avow it as my solemn belief, that the annexation of an independent foreign power to this government, would, *ipso facto*, be a dissolution of this union. And is this a subject for the peculiar investigation of your committee on foreign affairs?" Mr. A. said the question involved was, whether a foreign nation—acknowledged as such in a most unprecedented and extraordinary manner, by this government, a nation "damned to everlasting fame" by the reinstitution of that detestable system, slavery, after it had once been abolished within its borders—should be admitted into union with a nation of freemen. "For, sir," said Mr. A., "that name, thank God, is still ours! And is such a question as this to be referred to a committee on *foreign* affairs?"

Mr. A. said the exact grounds upon which the memorialists based their

prayer, were not yet officially known to the house. He had presented one hundred and ninety petitions upon this subject, signed by some 20,000 persons, and his colleagues had presented collectively a larger number. Members from other states had also presented similar memorials; but his colleagues had thought it fitting to move the reference to a select committee of those only which he and they had presented. All had the same object; and they contained nothing that had the least connection with the foreign affairs of the country.

These memorialists from Massachusetts, Mr. A. said, had observed with alarm and terror the conduct of the government towards Mexico, during the last, and as far as it had gone, of the present administration, in relation to the affairs of Texas. One strong reason of the remonstrance, on the part of his constituents, was, that the nation sought to be annexed to our own had its origin in violence and fraud; an impression by no means weakened by the impulses given by the late and present administrations to push on this senseless and wicked war with Mexico. They had seen the territory of that republic invaded by the act of the executive of this government, without any action of congress; and they had seen conspirators coming here, and contriving and concerting their plans of operations with members of our own government! Amidst all these demonstrations, they had heard the bold and unblushing pretense that the people of Texas were struggling for freedom, and that the wrongs inflicted upon them by Mexico had driven them into insurrection, and forced them to fight for liberty!

There had been recent evidence afforded the country as to the real origin of the insurrection. A citizen of Virginia, (Dr. Mayo,) who for years had held offices under the late administration, had just issued a pamphlet in this city, giving a copy of a letter by himself, in December, 1830, to the president of the United States, in which he declared, that, in February, 1830, the person now called *president Houston*, did in this city, disclose to himself, the author of this letter, all his designs as to this then state of the republic of Mexico—Texas. What that letter contained as to the disclosure of a scheme to be executed, was now a matter of history. It disclosed the particulars of a conversation which detailed the plan of the conspiracy, since consummated, to rob Mexico of the province of Texas.

Mr. A. then inquired what were the pretenses upon which the dismemberment of Texas from Mexico were justified. As early as 1824, the legislature of the republic of Mexico, to its eternal honor, passed an act for the emancipation of slaves, and the abolition of slavery; and the only real ground of rebellion was that very decree: the only object of the insurrection, the revival of the detested system of slavery; and she

had adopted a constitution *denying to her legislature even the power of ever emancipating her slaves!*

Mr. Adams did not wish to refer the memorials to the committee on foreign affairs, because it was not properly constituted. Its chairman, (Mr. Howard,) was himself a slaveholder, and, it was feared, entertained a widely different opinion, as to the morality of slavery, from that held by the mass of the memorialists; and that a majority of the committee were in favor of annexing Texas to this government. It was conformable with the parliamentary rule to appoint a majority of a committee in favor of the prayer of the memorialists. This seemed to him as one of the incidents of freedom of petition itself. Six out of nine of the committee on foreign affairs were slaveholders; and he took it for granted, that every member of the house who was a slaveholder, was ready for the annexation of Texas; and its accomplishment was sought, not for the acquisition of so much new territory, but as a new buttress to the tottering institution of slavery.

After a brief interruption by southern members, Mr. A. proceeded:

He said, discussion must come: though it might for the present be delayed, he believed it would not forever be smothered by previous questions, motions to lay on the table, and all the other means and arguments by which the institution of slavery was wont to be sustained on that floor—the same means and arguments, in spirit, which in another place have produced murder and arson. Yes, sir, the same spirit which led to the inhuman murder of Lovejoy at Alton——

The chair remarked that Mr. A. was straying from the question of reference; and some conversation ensued as to his right to proceed, which he was at length permitted to do.

In the course of his remarks, he said that he and his colleagues had seen, in reading the late message of the executive, how much was *not* in that document as well as how much *was* in it. It contained much allusion to the grievances of this government at the hands of Mexico, and none to our relation with Texas. The annexation of Texas and the proposed war with Mexico, were one and the same thing, though expressed in different forms. The message was adverse to the prayer of the memorialists. Under the decision of the chair, he should reserve what he had to say further on this point until the mouths of members inclined to advocate the cause of freedom upon that floor, should be permitted to be opened more widely; if indeed, there was any hope that that time should ever arrive.

Mr. Wise said there was no need, at present, of any such reference as had been proposed. Texas had attempted to open a negotiation for admission; but her overture had been declined on the ground of our rela-

tions with Mexico. No memorial in favor of such a measure had ever been before this house. It would be time enough to discuss the subject dwelt upon with so much feeling by the gentleman from Massachusetts, when it should come up regularly for discussion. He therefore moved to lay the motions of reference on the table; and, having refused to withdraw his motion at the request of Mr. Rhett and Mr. Dawson to enable them to reply to Mr. Adams, the question was taken, and decided in the affirmative: yeas, 127; nays, 68.

On the 13th of June, 1838, the committee on foreign affairs reported that there was no proposition pending in the house either for the admission of Texas as a state, or for its territorial annexation to the United States. And in October it was announced in the official paper (*Globe*) that, since the proposition submitted by Texas for admission into the union had been declined, the Texan minister had communicated to our government the formal and absolute withdrawal of that proposition. The question was not again agitated in congress during the administration of Mr. Van Buren.

CHAPTER LVIII.

“PATRIOT WAR.”—AFFAIR OF THE CAROLINE.—TRIAL OF M’KENZIE
AND VAN RENSSELAER.—TRIAL OF M’LEOD.

In December, 1837, an affair occurred, which, for a time, threatened to interrupt our amicable relations with Great Britain. An insurrectionary movement was made in Upper Canada, having in view a reform in the government of that province. A proclamation had been issued from Navy island, signed by Wm. Lyon Mackenzie, chairman, pro tem. of the provincial government, calling upon the reformers to make that island their place of rendezvous, and to aid otherwise in revolutionizing the province. It offered a bounty of three hundred acres of land to all volunteers; and a reward of five hundred pounds for Sir Francis Head, the governor of the province. It stated that the command of the forces was given to Gen. Van Rensselaer, a son of Gen. Solomon Van Rensselaer, of Albany. The sympathy manifested by some citizens of the United States with the Canadian insurgents, induced the governors of New York and Vermont to issue proclamations, exhorting the citizens of these states to refrain from any unlawful acts within the territory of the United States. Notwithstanding these proclamations, the insurgents

were joined by citizens of the United States; whence also they received arms and munitions of war.

On the night of the 29th of December, the steamboat *Caroline*, owned by one of our citizens, while lying at Schlosser, on the American shore, was seized by a party of seventy or eighty armed men in boats, which came from, and returned to the Canadian shore. The crew and several other persons on board, were attacked while asleep, and one of them killed; the boat was set on fire, taken into the river, and left to be carried over the Niagara falls. The boat having conveyed visitors to and from Navy island, it was suspected by the Canadians, that it had been employed in transporting supplies to the insurgents. It appeared subsequently, that the outrage had been committed by the order of the British commanding officer, Col. M'Nab.

A proclamation was promptly issued, (January 5,) by president Van Buren, enjoining on all citizens obedience to the laws, warning them that the violation of our neutrality would subject the offenders to punishment. Information of the affair was also communicated by the president to congress. Gen. Scott was forthwith ordered to the Canada frontier to assume the military command there; and requisitions were made upon Gov. Marcy, of New York, and Gov. Jenison, of Vermont, for such militia force as Gen. Scott might require for the defense of the frontier.

A letter was also addressed by Mr. Forsyth, secretary of state, to Mr. Fox, British minister at Washington, communicating a copy of the evidence of the outrage, which, having been committed, "at the moment when the president was anxiously endeavoring to allay the excitement, and earnestly seeking to prevent any unfortunate occurrence on the frontier," would "necessarily form the subject of a demand for redress upon her majesty's government." And the expectation was expressed, that an early explanation might be obtained by Mr. Fox from the Canadian authorities, of the circumstances of the transaction, and that, by his advice, precautions might be used to prevent similar occurrences.

In the senate, a bill was reported by the committee on foreign relations, to protect the frontier, and to preserve our neutral relations. It authorized the seizure of vessels belonging to citizens of the United States, fitted out upon our lakes and rivers, with arms and munitions of war on board, when there should be cause to suspect that they were designed to aid persons who had taken up arms against the government of a neighboring state or colony. The bill passed the senate; but in the house it was laid on the table; and a bill was passed, amending an existing act having in view the same object; which bill also passed the senate, and became a law.

A history of this "patriot war," as it was called, does not come within the scope of this work. Suffice it to say, that all the patriot forces along the frontier, from Vermont to Michigan, were disbanded before the ensuing spring, and tranquillity was restored. A considerable number of Americans were taken prisoners by the Canadians, and tried under the British laws. A number of them were convicted: some of whom were executed, and others sentenced to transportation to Van Dieman's land. Of the latter was Gen. Sutherland, one of the principal commanding officers of the patriot army. He, however, never was taken farther than England, where he was finally discharged. It should be added, that, in November and December of 1838, an ill-advised and reckless invasion of Canada was attempted at Prescott, opposite Ogdensburg, and another at Sandwich, near Detroit. But the almost entire destruction of the invaders, and another proclamation from president Van Buren, seem to have put a check upon these movements, which soon after entirely ceased.

There were incidents, however, growing out of this attempted revolution, and involving legal principles, which deserve notice in this place. Mackenzie, having taken up his residence in this country, was indicted, tried, and convicted in a circuit court of the United States, for a violation of our neutrality law. In his defense, he attempted to show that the revolt in Canada was justifiable and proper; that what he had done, had been done by others with impunity and approval, as in the cases of Texas, South America, Greece, &c.; and he referred to a decision of this same court in the city of New York, that it was not a violation of the neutrality act to furnish money, supplies, and munitions of war, to enable Texas to carry on a war against Mexico.

The court, (Judge Thompson,) in his charge to the jury, held, that the oppression of the people of Canada, though it might justify an attempt to free themselves from such oppression, had no bearing on this question. Those who governed those provinces might govern them as they pleased, and those who lived under that government might find what fault they pleased. It was a family quarrel with which we had nothing to do. Any interference on our part would be improper, perhaps lead to war. To prevent such interference, the neutrality act was passed. The act, however, did not prevent an individual from entering the service of any body of men or of any nation; it only prohibited the assisting in fitting out, or the providing means for, or aiding in an expedition *from* the United States against a power with which we are at peace. Hence, the mere meeting together of individuals, or the raising of money, or the collection of arms, to send to Texas, was not a violation of this law; because it did not contemplate the fitting out of an expedition *in this country*, and sending it *to another country*.

Reference had been made to the destruction of the *Caroline* to show the existence of war. But we had no right to draw such an inference from that act. War could not be presumed to exist, until it had been declared by congress. Nor was the argument correct, that he alone was responsible who organizes or commands an expedition. But any person who participates in, or is in any way connected with it is equally culpable.

It appeared that the defendant addressed a meeting in the city of Buffalo. He had endeavored to excuse himself by saying that he had been *invited* to do so. That, however, did not affect the question of guilt. But no guilt was incurred in attending and addressing the meeting, but by his subsequent acts: the speeches could only go as evidence of the intent of what followed. He said those in arms in Canada wanted munitions of war. In this was nothing wrong. But after the meeting, he joined Sutherland, who asked for volunteers in the presence of the defendant. There was music at the door, and a party followed that music with Sutherland at its head. And the next day the defendant was with him at Black Rock. In what way was he connected with him? The proclamation had been produced as evidence. Had the proclamation been proved upon him? It had been proved that he had procured the printing of a thousand copies, had read the proof, and at Navy island had given copies to Smith and others; and they had been distributed. But this proclamation is important only because it identifies him with Sutherland and Van Rensselaer as coöperators in the expedition.

Under the charge of which this is a sketch, the defendant was found guilty. The court having no authority to send him to the state's prison, he was sentenced to eighteen months' imprisonment in the county jail, (at Rochester,) and to pay a fine of \$10. After a confinement of ten or eleven months, the residue of his punishment was remitted by the president. Van Rensselaer was sentenced to six months' imprisonment, and a fine of \$250. Being unable to pay the fine, the president remitted the same.

Another case was that of Alexander M'Leod, a Canadian, who was charged with having participated in cutting out and burning the *Caroline*. He was arrested at Lockport, Niagara county, N. Y., in the fall of 1840, and committed to jail in that place. He was afterwards indicted by a grand jury for the murder of Amos Durfee, who was on board the *Caroline* at the time of the burning of that vessel. This case excited much interest, and not a little apprehension of a collision between the two countries. M'Leod had been indicted for an offense against the laws of New York; and, if convicted, it was presumed the penalty of the law would be inflicted upon him. But the act for which M'Leod

had been arraigned having been sanctioned by the British government that government would, it was presumed, feel bound to protect its subjects. On this presumption was founded the apprehension above mentioned.

In May, 1841, M'Leod was taken under a writ of *habeas corpus*, returnable at the May term of the supreme court, which was to be held in the city of New York; but the decision of the court was not given until the July term. The British government had, through their minister, demanded the release of M'Leod, on the ground, "that the transaction on account of which he had been arrested, was one of a public character, planned and executed by persons duly authorized to do any acts necessary for the defense of her majesty's territories, and for the protection of her subjects." Being thus in the performance of a public duty, it was alleged, "that he could not be made personally and individually answerable to the laws and tribunals of a foreign country."

The court held, however, that the Canadian provincial authorities had no inherent right to institute a public war; nor did such war exist. The sovereign power of neither country had characterized the transaction as a public war, actual or constructive. If it were such a war, the United States might take possession of M'Leod as a prisoner of war; and there would have been no need of this motion. The civil war which England was prosecuting against various individuals, had been insisted on as a ground of protection. The court admitted, "that the strongest possible color for the extraordinary right claimed, was to be derived from taking the United States to stand in the attitude of a neutral nation with respect to two parties engaged in actual war, England on one side, and Van Rensselaer, Durfee and their associated assailants on the other, called by Grotius *mixed* war, being made on one side by public authority, and on the other by mere private persons. In such a war, had England any right to follow Durfee into the neutral territory of the United States? According to the books, she had not. 1 Kent's Com. 119-20. Independently of fresh pursuit, no writer on the laws of nations had ever ventured the assertion, that one of two belligerents could lawfully do any hostile act against another upon neutral ground. All rightful power of M'Leod and his associates to harm any one, ceased the moment they entered a country with which their sovereign was at peace.

Much had been said by the prisoner's counsel about the hardship of treating soldiers as criminals, who were obliged to obey their sovereign. The court said the rule was the same in respect to the soldier as to any other agent bound to obey the process or command of a superior. A sheriff is obliged to execute a man regularly sentenced to capital execution in this state. But should he execute a man in Canada under such

sentence, he would be a murderer. A soldier in time of war between us and England might be compelled, by an order from our government, to enter Canada, and fight and kill her soldiers. But should congress pass an act compelling him to do so on any exigency in time of peace, if he should obey, and kill a man, he would be guilty of murder.

This point was strengthened by the citation of numerous authorities; and other arguments of the prisoner's counsel were duly considered. The court decided that the prisoner must be remanded to take his trial in the ordinary forms of law.

At the extra session, (June, 1841,) the subject was discussed in both houses of congress. The discussion seems to have partaken in some degree of a party character, notwithstanding the disclaimers of speakers of being influenced by party feelings. The British minister (Mr. Fox) having informed our government that the transaction in which M'Leod was concerned had been avowed by his government as an authorized and public act, and that he was instructed to demand the release of M'Leod, who, for the performance of a public duty, could not be individually answerable to the laws of a foreign country, our secretary of state, (Mr. Webster,) took the ground that, by this avowal, the British government had become responsible for the offense of M'Leod, who had acted under the orders of that government; and that he should be discharged.

In the senate, Mr. Buchanan maintained the opinion subsequently given by the supreme court of New York, as above stated, that the act of M'Leod was an offense against the laws of New York, for which he was individually responsible. Mr. Forsyth, Mr. Webster's predecessor, had, in his correspondence with the British minister, held that the avowal of the act of M'Leod, if it should be made, would not exculpate him; and it would, at the same time, also implicate the British government in his guilt. In connection with the demand for the release of M'Leod, Mr. Fox had entreated the president "to take into his most deliberate consideration the serious nature of the consequences which must ensue from a rejection of this demand." Mr. Buchanan thought Mr. Webster had done wrong in giving an answer to Mr. Fox, until this threat had been withdrawn or explained. He had not displayed sufficient decision and firmness.

Mr. B., to establish the responsibility of both the British government and M'Leod, quoted Vattel, as follows: "But if the nation or its chief approves and ratifies the act of the individual, it then becomes a public concern, and the injured party is then to consider the nation as the real author of the injury, of which the citizen was perhaps only the instrument." "If the offended state has in her power the individual who has done the injury, she may, without scruple, bring him to justice and

punish him. If he has escaped and returned to his own country, *she* ought to apply to his sovereign to have justice done in the case."

If this doctrine was incorrect, said Mr. B., to what consequences would we be forced? A British marauder on this side of the line is seized in the very act. We are to wait until we can ascertain whether his government recognizes his criminal act before we can punish him for violating our laws. If it does, the jail door is thrown open, the offender, perhaps murderer, takes his flight to Canada, and we must settle the question with the British government. Such, he said, was the doctrine of that government and of our own secretary of state. This principle would lead to a war with that power. In a state of war, captured invaders of our territory would be treated as prisoners of war. But in time of peace, a man thus taken could not be made a prisoner of war. M'Leod, however, was not to be punished under our laws, if guilty, lest we should offend the majesty of England. The laws of New York were to be nullified, and the murderer was to run at large.

Mr. Rives replied to Mr. Buchanan. He said this unwarrantable outrage had been committed in December, 1837, and aroused the public indignation. Our minister at London, (Mr. Stevenson,) under the instructions of his government, represented the subject to the British government, to obtain a "disavowal and disapproval of the act, and also such redress as the nature of the case required." Notwithstanding the enormity of the outrage, the senator's political friends, the late administration, in whom he thinks there was no want of energy in prosecuting the demand for redress, slept over this national injury, till March, 1841, when they went out of power. So profound had been the slumber, that lord John Russell had stated in the house of commons, that the complaint of the American government had been, for a long period, considered as dropped. When, in 1839, Mr. Stevenson wrote to Mr. Forsyth to know if he should renew the subject, Mr. F. replied *No*: "the president expects, from the tone of Mr. Fox's conversation, that the British government will answer your application in the case without much further delay." But no answer was given. All this while, the destruction of the *Caroline* stood *unexplained* and *unavowed* by the British government; and there was nothing of a conclusive nature to determine, whether it was to be viewed as an authorized act of an individual, or as the public act of the British authorities. In this state of things M'Leod, in November last, (1840,) came into the state of New York, and, having, from his idle, and, as is now universally believed, false boasts, incurred the suspicion of having been an actor in that scene, he was arrested and indicted. In December, Mr. Fox demanded the release of M'Leod on the ground that the destruction of the *Caroline* was a public act. The

demand was refused, because the government of the United States had no right to interfere with the judicial tribunals of New York; and the recognition of the destruction of the boat as a public act, had not been communicated to our government by any person authorized to make the admission. Mr. Fox stated to Mr. Forsyth, that he was not authorized to pronounce the decision of her majesty's government upon the remonstrance of the United States against the act in question.

On the 12th of March, eight days after the inauguration of president Harrison, Mr. Fox informed Mr. Webster that he had been instructed to avow the act as authorized by his government, and again demanded the release of M'Leod. Mr. Rives defended the doctrine of the administration, that the act having been recognized as a public act, the individual was not answerable; and he controverted the opinion of Mr. Buchanan, that the principle was applicable only to a formal and declared war. He read from Vattel a passage relating to the case of an unjust war: "It is the duty of subjects to suppose" the orders of their sovereign "just and wise," &c. "When, therefore, they have lent their assistance in a war which is afterwards found to be unjust, the *sovereign alone is guilty*. He alone is bound to repair the injuries. The subjects, and in particular the military, are innocent; they have acted only from a *necessary* obedience." "Government would be impracticable, if every one of its *instruments* were to weigh its commands."

Mr. R. considered the ground taken by our government as highly honorable. He said: "The destruction of the Caroline being at length avowed as a public act, the administration could not but feel that it was unworthy of the character of the nation, to dignify a miserable and subordinate instrument who may have been employed in it, by making him the selected object of national vengeance." The principle of exempting individuals in such cases, he said, was founded in reason and humanity, and recognized by the universal practice of civilized nations. "What, then, did it become a high minded and honorable government to do under these circumstances? Frankly and unreservedly to admit the principle—to put itself in the right—and to do whatever should devolve on it as a moral and responsible power, to fulfill and maintain the right. It had a higher game—a nobler mission—than to *make war* upon M'Leod." Mr. R. also adverted to what Mr. Buchanan had denominated a *menace* in the communication of Mr. Fox. It was remarkable that language almost identical, in a letter from Mr. Fox to Mr. Forsyth, had not aroused the jealous sensibilities of the gentleman. Said Mr. Fox: "I can not but see the *very grave and serious consequences that must ensue*, if, besides the injury already inflicted upon Mr. M'Leod, of a vexatious and unjust imprisonment, any further harm may be done him

in the progress of this extraordinary proceeding." But I must say that punctilios like these are not of substance sufficient in my opinion, to occupy, in this age of the world, the grave discussions of a body like the senate of the United States. The calm dignity of conscious strength is not prone to be astute in imagining or suspecting *insult*.

Mr. R. added, that the honor of the country would not be compromised by those to whose keeping it had been intrusted. The president had announced, as the maxims of his policy toward foreign powers, *to render justice to all, submitting to injustice from none*; esteeming it "*his most imperative duty to see that the honor of the country shall sustain no blemish.*" And these sentiments found a faithful echo in the letter of the secretary of state to Mr. Fox: "This republic does not wish to disturb the tranquillity of the world. Its object is peace, its policy peace. But still it is jealous of its rights, and among others, and most especially, of the right of the absolute immunity of its territory from aggression abroad; and these rights it is the duty and determination of this government fully and at all times to maintain, while it will as scrupulously refrain from infringing on the rights of others."

Mr. Choate followed on the same side, and was replied to by Mr. Calhoun, who contended, that the authority or sanction of his government did not exempt an individual from responsibility to the injured government, even in case of war. But if gentlemen should succeed in making the attack on the *Caroline* an act of war, it would avail them nothing in their attempt to defend the demand of Mr. Fox, or the concession of Mr. Webster. If it were war, M'Leod would be a prisoner of war, and forfeit his liberty; and his government would have no right to demand his release.

In the house, a debate arose upon a resolution offered by Mr. Floyd, of New York, proposing an inquiry into the objects and result of a visit of the attorney-general of the United States to the state of New York, in reference to the trial of M'Leod. Mr. Adams dissented from the opinion of the supreme court of New York, delivered by Judge Cowen. The great and important question with other nations in relation to this affair was, "Who was right, and who was wrong? Who struck the first blow?" He held, that the persons connected with the *Caroline* had committed an act of war against the British government. Nor did he subscribe to the opinion that every nation goes to war on issuing a declaration or proclamation of war. Nations often wage war for years, without issuing any declaration; and the question was not here upon a declaration of war, but acts of war. In the judgment of impartial men of other nations, *we* would be held as a nation responsible; and the *Caroline* would be considered in a state of war against Great Britain—the worst kind of

war—to sustain an insurrection. There was very little disguise about this expedition : this vessel was there for the purposes of hostility against the Canadian government. What was the steamboat about ? What had she been doing ? What was she to do the next morning ? And what ought *you* to do ? You have reparation to make for all the men and for all the arms and implements of war we had transported and were going to transport to the other side, to foment and instigate rebellion in Canada.

Mr. Adams defused the course of the administration. He said that, in negotiation, the United States would be held responsible for the personal safety of M'Leod. He approved the instructions given to the attorney-general when sent to New York, and which averred, that, “whether the process be criminal or civil, the fact of having acted under public authority, and in obedience to lawful superiors, must be regarded as a valid defense ; otherwise individuals would be holden responsible for injuries resulting from acts of government, and even from the operations of public war.” It was true the British government had been given to understand, that since the avowal that M'Leod had acted under authority he must be ultimately released or surrendered. “And what then ?” said Mr. A. “Is it not so ? Why, sir, Indian savages—cannibals, to whom revenge is the first of virtues—accept of ransom for the blood of their relatives slain ; and is it for a Christian nation, in cold blood, four years after a defensive irregularity of border war, provoked by their own people, to hold a man responsible to their own municipal law for *murder*, because the life of a man was lost in a nocturnal foray, authorized by the public authorities, civil and military, of the country in whose defense it was undertaken and achieved ? Sir, there is not a civilized country on earth but would cry shame upon us for carrying such barbarian principles into practice. * * * I ask every member of this house to put himself in the position of a prisoner in a foreign land for an act done by the orders of his government—for the burning of a boat, or the killing of men : I ask every man here to put himself in the situation of M'Leod, either in Great Britain or in any part of the British dominions, and suppose it a matter of negotiation between the two governments—what would he say if the British secretary of state, from a representation that this was done by the orders of the government of the United States, and that the nation held itself responsible for the act, should say, ‘of course ultimately we shall release him ?’ Now, I would ask, if this would be disgraceful to the British nation.” Mr. A. rejoiced that the letter of the secretary had calmed the irritation and resentment of the British government produced by the inflammatory report of the house. It was one of the best papers ever written ; and the effect of it upon the nation was to be one of glory and not of reproach.

The resolution was laid on the table, 109 to 70.

This question was also discussed in the legislature of New York, on a resolution offered by Mr. Swackhamer, of New York, requesting the governor to communicate to the house certain information in reference to the case of M'Leod.

Mr. Hoffman justified, under the British government, the attack made upon the Caroline. The rebels, he said, had gained possession of Navy Island; the drafts of men there had been made from the United States; the officers in command were over our citizens. By the national law, the sovereign whose territory was endangered had a right to repel the danger; and if in so doing he should momentarily pass the line between the two countries, it must be the subject of negotiation. He would ask where the man was in this state who would not have obeyed a similar order from the local authorities. In case of sedition or rebellion in this state,—if a boat were seen daily plying from the Canadas furnishing those in arms with the means of warfare, and orders should be issued by the authorities of this state to destroy that boat, who would for a moment refuse to obey that order? He moved to refer the resolution with instructions to bring in a bill “to enter a *nolle prosequi* on the indictment, and to grant M'Leod a safe conduct to his sovereign.”

The trial of M'Leod took place at Utica in October, 1841; a special term of the circuit court having been appointed by the legislature for that purpose. The trial occupied more than a week. The jury, after a retirement of about twenty minutes, returned with a verdict of NOT GUILTY. There was testimony identifying him as one of the party who destroyed the Caroline and killed Durfee; and there were several witnesses to whom M'Leod had boasted that he had “killed one d——d Yankee.” From the testimony of the defense, however, it appeared that he was during the whole of that night in Canada.

The question as to the responsibility of the participators in the destruction of the Caroline and the murder of Durfee, to the laws of the state of New York, did not end with the trial. A review of the opinion of Justice Cowen, by Judge Tallmadge, of the superior court of the city of New York, was subsequently published, in which that opinion is controverted, and the doctrine of Webster, Adams, and others is supported. Chancellor Kent, Judge Ambrose Spencer, and other eminent jurists, expressed their concurrence in the doctrines of this review. A review of Judge Tallmadge's review appeared in the Democratic Review, maintaining the opinion of the supreme court, as delivered by Justice Cowen on the trial of the *habeas corpus*. Those who desire to investigate this question are referred, for the first review, to 26 Wendell; for the latter, to 3 Hill, p. 635.

CHAPTER LIX.

THE SLAVE SCHOONER AMISTAD.—CAPTIVES LIBERATED.—MEETING OF THE TWENTY-SIXTH CONGRESS.—SEATS OF NEW JERSEY MEMBERS CONTESTED.—FLORIDA WAR.

In August, 1839, a vessel lying near the coast of Connecticut, under suspicious circumstances, was captured by Lieut. Gedney, of the brig Washington, and taken into New London. This vessel was a schooner, called L'Amistad, bound from Havana to Guanaja, Port Principe, with fifty-four blacks and two passengers on board. The former, four nights after they were out, rose and murdered the captain and three of the crew; then took possession of the vessel with the intention of returning to Africa. The two passengers were Jose Ruiz and Pedro Montez, the former owning forty-nine of the slaves, and most of the cargo; the latter claiming the remaining five, all children from seven to twelve years of age, and three of them females. These two men were saved to navigate the vessel. Instead, however, of steering for the coast of Africa, they navigated in a different direction, whenever they could do so without the knowledge of the Africans. It appeared that the slaves had been purchased at Havana, soon after their arrival from Africa. Cingues, who was the son of an African chief, and leader of the revolt, with thirty-eight others of the revolters, was committed for trial; and the three girls were put under bonds to appear and testify.

A demand was soon after made upon our government by the acting Spanish minister in this country, for the surrender of the Amistad, cargo, and alleged slaves, to the Spanish authorities.

The children were brought before the circuit court of the United States, held at Hartford, in September, on a writ of *habeas corpus*, with a view to their discharge, on the ground that they were not slaves; proof of which was given by two of the prisoners who testified that the children were native Africans. The discharge was resisted by Mr. Ingersoll, counsel for the Spanish claimants, who stated, that the persons were libeled in the district by Capt. Gedney, his officers and crew, as property; they were also libeled by the Spanish minister as the slave property of Spanish subjects, and as such ought to be delivered up; and they were libeled by the district attorney, that they might be delivered up to the executive, in order to their being sent to their native country, if it should be found right that they should be so sent. The counsel presumed that this (circuit) court would not, under this writ, take this case out of the legitimate jurisdiction of the district court, as, if the decision of that court

should not be satisfactory, the matter could be brought before this court by appeal.

[For the information of some readers, it may be necessary here to say that the word *libel*, as used in courts of admiralty, signifies "a declaration or charge in writing, exhibited in court, particularly against a ship or goods, for a violation of the laws of trade or revenue." Also vessels captured in time of war and claimed as prizes, are thus libeled. When a prize is brought into a port, the captors make a writing called *libel*, stating the facts of the capture, and praying that the property may be condemned; and this paper is filed in the proper court. If it shall appear on trial that the property captured was subject to condemnation, it is distributed among the captors.]

It was maintained by Mr. Baldwin, counsel for the children, that they had been feloniously and piratically captured in Africa—contrary to the laws of Spain—consequently, they were not property, and therefore the district court was ousted of its jurisdiction. The district judge had not issued his warrant to take these individuals. This he could not do without first judicially finding that they were property. The warrant issued by his honor to the marshal was to take the vessel and other articles of *personal property*. These children were not, and never could become personal property. They formed a part of a number of persons, who, born free, were captured and reduced to slavery. They had come here, not as slaves, but as free; and we are asked first to make them slaves, and then give them up to the Spaniards. But we can only deliver up *property*; and before they can be delivered up, they must be proved to be *property*. Mr. Staples, associate counsel for the Africans, said, Montez had the hardihood to come into a court of justice in our free country, and in contravention of our treaty with Spain, to ask the surrender of these human beings, when the very act he desired us to countenance, would, by his own sovereign's decree, have subjected him to forfeiture of all his goods and to transportation; and he would himself have become a slave. This was a case of felony; and felony could not confer property.

The next day, a second writ of *habeas corpus* having been issued, all the Africans were before the court. The counsel recapitulated the facts of the case, and again denied the jurisdiction of the district court. As a court of admiralty, it could do nothing with them but as property; and the applicant must first prove them to be property. Some of them were taken on shore; these were within the jurisdiction of the common law.

As to the libel of the district attorney at the suit of the Spanish minister—what had the minister to do with it? The parties claimed were neither fugitives nor criminals. The district attorney libels them and prays that they may be kept in custody, that, if at some future time it

should appear that they had been brought hither illegally, they might be delivered up to the president to be sent back to their own country. The counsel then asked their discharge. He said they should be taken care of (as it was right they should be) by the state of Connecticut.

The counsel for the claimants followed in support of the jurisdiction of the district court; and the district attorney in support of his libel on behalf of the executive.

The decision of the court (Judge Thompson) in relation to the motion of the prisoners' counsel to discharge the Africans, was to *deny the motion*, as the question before the court was simply as to the jurisdiction of the district court over this subject. If the seizure was made upon the high seas—and the grand jury said it was made a mile from the shore—then the matter was right—fully before the court for this district. If, as was supposed by the counsel on both sides, the seizure was made within the district of New York, the court could endeavor to ascertain the locality. To pass upon the question of property, belonged to the district court. Should either party be dissatisfied with the decision of that court, an appeal could be taken to the circuit court, and afterwards to the supreme court of the United States.

The court said the question now disposed of had not been affected by the manner in which the grand jury had disposed of the case upon the directions of the court. They had only found that there had been no criminal offense committed which was cognizable by the courts of the United States. Murder committed on board a foreign vessel with a foreign crew and foreign papers, was not such an offense; but an offense against the laws of the country to which the vessel belonged. But if the offense had been against the law of nations, this court would have jurisdiction. The murder of the captain of the *Amistad* was not a crime against the law of nations.

The district court was opened; and the judge said he should order the district attorney to investigate the facts to ascertain where the seizure was made; and then adjourned the court to November.

At the adjourned term of the court in November, it was pleaded in behalf of the Africans, that neither the constitution, laws, or any treaty of the United States, nor the law of nations, gave this court any jurisdiction over their persons; they therefore prayed to be dismissed. The counsel for Capt. Gedney denied that the Africans had anything to do with the question now before the court. It was a claim for salvage; and the parties were the libelants (Gedney and the other officers and crew of the *Washington*), and Ruiz and Montez, owners of the vessel and cargo. Gedney and others claimed salvage for saving the property of these Spaniards, who did not resist the claim.

The district attorney presented a claim in behalf of the United States for the vessel, cargo and negroes, with a view to their restoration to their owners, who were Spanish subjects, without hinderance or detention, as required by our treaty with Spain.

The interpreter being absent and sick, the court adjourned to New Haven in January next.

In January, the decision of Judge Judson was given. The blacks who murdered the captain and others on board the schooner, were set free. But if they had been whites, they would have been tried and executed as pirates. The schooner having been proved to have been taken on the "high seas," the jurisdiction of the court was established. The libel of Gedney and others had been properly filed, and the seizers were entitled to salvage. Ruiz and Montez had established no title to the Africans, who were undoubtedly Bozal negroes, or negroes recently imported from Africa in violation of the laws of Spain. The demand of restoration made by the Spanish minister, that the question might be tried in Cuba, was refused, as by Spanish laws the negroes could not be enslaved; and therefore they could not properly be demanded for trial. One of them a Creole, and legally a slave, and wishing to be returned to Havana, a restoration would be decreed under the treaty of 1795. These Africans were to be delivered to the president, under the act of 1819, to be transported to Africa.

An appeal was taken from the decree of the district judge to the circuit court, judge Thompson presiding, who affirmed that decree. And the government of the United States, at the instance of the Spanish minister, here appealed to the supreme court of the United States. That court affirmed the judgment of the district court of Connecticut in every respect, except as to sending the negroes back to Africa: they were discharged as free men.

A deep interest seems to have been taken by the British government in the case of these Africans. Their minister in this country, Mr. Fox, was instructed to intercede with our government in their behalf; and their minister in Spain was directed to ask for their liberty if they should be delivered to the Spaniards at the request of the Spanish minister at Washington, and should be sent to Cuba; and to urge Spain to enforce the laws against Montez and Ruiz and any other Spanish subjects concerned in the transaction in question.

A disposition was manifested on the part of our government to effect the delivery of the captives to the Spanish authorities, at Cuba, to be there dealt with according to the laws of Spain. The friends of the Africans in this country deprecated such event, apprehending that the freedom of the negroes might not be obtained through the Spanish tribunals.

On the 10th of February, 1840, probably suspecting unfairness on the part of the administration, a resolution was offered, requesting the president to communicate to the house copies of any demand by the Spanish government for the surrender of the Africans, and of the correspondence between the state department and the Spanish minister and the district attorney of the United States in the judicial district of Connecticut.

On the 20th of January, 1841, while the question of the prisoners was still pending in the supreme court of the United States, the British minister addressed to Mr. Forsyth, secretary of state, a letter representing the interest felt by his government in the case of the African negroes, mentioning the obligation of Spain, by treaty with Great Britain, to prohibit the slave trade from the 30th of May, 1820, and the mutual engagements of the United States and Great Britain, by the 10th article of the treaty of Ghent, to use their endeavors for the entire abolition of the slave trade. And as the freedom of the negroes may depend upon the action of the United States government, he expresses the hope, that the president would find himself empowered to take such measures in their behalf, as should secure to them their liberty.

Mr. Forsyth, in his answer of the 1st of February, says in substance, that the introduction of the negroes into this country did not proceed from the wishes or direction of our government. The vessels and the negroes had been demanded by the Spanish minister, and the grounds of that demand were before the judicial tribunals. He tells Mr. Fox that our government is not willing to erect itself into a tribunal between Spain and Great Britain; that he, (Mr. Fox,) had doubtless observed from the correspondence published in a congressional document, that the Spanish minister intended to restore the negroes, should their delivery to his government be ordered, to the island of Cuba, to be placed under the protection of the government of Spain. There was the proper place, and there would be a full opportunity, to discuss questions arising under the Spanish laws and the treaties of Spain with Great Britain.

The decision of the supreme court was awaited with deep interest by all who sympathized with the negroes. Mr. Adams, who had not argued a case for thirty or forty years before that court, made a very elaborate as well as able argument in their behalf. The opinion of the court was pronounced by Mr. Justice Story, early in March, 1841, affirming the decision of the district court in every particular, except that which ordered the negroes to be delivered to the president to be transported to Africa. The court reversed this part of the decree, and ordered the cause to be remanded to the circuit court which had affirmed the same, with directions to enter in lieu thereof, that the negroes be declared free, and be discharged from suit.

The 26th congress assembled on the 2d of December, 1839; on or during which day, every member of the house of representatives was present, except Mr. Thomas Kempshall, of Rochester, N. Y., who was necessarily detained at home. This unusually full attendance on the first day of the session was doubtless caused by the anxiety of both parties in relation to the election of speaker. The gains of the whigs had been such as to render it doubtful which party would control the action of the house during this congress. This doubt was increased by the fact that there were no less than six members returned whose seats were to be contested, viz.: Mr. Naylor, of Pennsylvania, whose seat was claimed by Mr. C. J. Ingersoll, and five of the six members from New-Jersey. The returned members were all whigs. The contestants, also, were all said to be in attendance.

At twelve o'clock, the clerk of the last house, Hugh A. Garland, in conformity with the former practice, commenced calling the roll of the members elect. Having called the members from the New England states and the state of New York, and one of the members, Mr. Randolph, from New Jersey, he paused, and proposed, if it were the pleasure of the house, to pass over the names of the five whose right to seats was to be contested, until the members of the remaining states should have been called. A stormy and disorderly debate ensued, which continued several days, during which time several propositions were unsuccessfully made. It was insisted by the opposition members, that, according to custom, the claimants having regular certificates of election, should be admitted to seats until a formal investigation could be had. The difficulty of determining upon any course of proceeding consisted, in a great measure, in there not having been a quorum of members called, and in the undetermined question whether those who claimed the contested seats should be permitted to vote.

Mr. Ogden Hoffman, of New York, insisted that it was the duty of the clerk to call the names of members having the regular legal certificates of election. He asked the clerk by what right he had called his own (Mr. H's) name. If the laws of New Jersey required, as proof of a man's election, a certificate, signed by the governor, that he had been duly elected, would the clerk dare insert in his roll the name of one not bringing such certificate? Let the law of New Jersey be read; they had no right, on the threshold, to pass it over and disregard its provisions—to set aside or postpone the claims of men presenting themselves as the representatives of a sovereign state, and bringing in their hands the legal proofs of their official character and rights.

Mr. Halsted, of New Jersey, demanded that his name should be called; and, in the course of his remarks, he read that section of the

law of his state which makes the governor's certificate the evidence of election, which, he insisted, the clerk was bound to receive as *prima facie* evidence of his right to sit there. At length in the midst of great confusion, and after much altercation with the clerk, Mr. Rhett, of South Carolina, moved that Lewis Williams, of North Carolina, the oldest member of the house, be appointed temporary chairman. Mr. Williams objected, as such proceeding was out of form. Mr. Rhett then modified his motion by substituting for the name of Mr. Williams that of John Quincy Adams. Mr. R. himself put the question, which was carried apparently by a large majority; and Mr. Adams took the chair.

Mr. Wise offered a resolution, that the clerk proceed with the call of members in the usual way, calling such as held the regular and legal commissions. The next day, (December 6,) Mr. Rhett moved to lay the resolution of Mr. Wise on the table, with a view to enable him to offer one, that the house proceed to call the names of members whose right to seats is not disputed; and then, before a speaker should be elected, hear and determine the claims to the contested seats. One of the tellers asked the chair which of the ten gentlemen from New Jersey claiming seats they were to admit to pass between the tellers. The chair replied that, according to the rule, those only who held commissions in conformity with the laws of the state of New Jersey, were entitled to vote. Mr. Vanderpoel, of New York, appealed from this decision of the chair, which he called "a gross act of usurpation." It was virtually declaring that the gentlemen from New Jersey should vote in their own cases, contrary to the rule of order which forbade members voting on questions in the event of which they were immediately and particularly interested. The chair replied that the rule did not apply to the present case, as it was not the representatives that were concerned, but their constituents and their state.

An animated debate here followed, in which many members participated, and in the course of which three New York members, Messrs. Hoffman, Granger, and Vanderpoel came into a somewhat sharp collision; the two first named gentlemen sustaining the decision of the chair, that the members entitled to vote were those who had certificates of election. Mr. Granger referred to the memorable contest—familiar to politicians in the state of New York—between two claimants to a seat in the legislature, Allen and Fellows, in 1816, the former having received the certificate of election, and being allowed the seat until the house was organized and certain other party questions were disposed of. By the vote of this one member, the party scales were turned; and after the main objects of the party had been effected, the contesting member was admitted to the seat.

On the 10th of December, the decision of the chair was negatived, 114 to 108. The announcement of the result created great confusion in the house. Mr. Wise, of the opposition, now rose and said, that, as the gentlemen who held the governor's certificate were denied the right to vote, he moved that the other claimants, who had the certificate of the secretary of state, be allowed to vote. Mr. Rhett moved to lay this motion on the table. Mr. Wise inquired if his motion was in order. Mr. Adams (the chairman) decided that it was; and observed "*that the state of New Jersey cannot be deprived of her representation in this house, and shall not be, so long as I have a seat as chairman of the meeting.*" The question to be decided was, which set of members should be allowed to vote—the members must now decide that. [The reporter here says "a scene of confusion here followed which it would be difficult to describe, even if we had room."]

By the previous question, a vote was then forced upon Mr. Rhett's motion to lay upon the table Mr. Wise's resolution, that the New Jersey members having the governor's certificate be allowed their seats. The result was, 115 ayes, 114 noes, but the chairman voting in the negative, there was an equal division, and the motion was therefore lost. Mr. Naylor having voted, Mr. Smith, of Maine, questioned his right to vote. Mr. N. said he had the governor's certificate of election and the people's, and no man had a right to question his right to vote. Additional confusion followed, which was terminated by a motion to adjourn: ayes, 116; noes, 113. Three of the New Jersey claimants and three of the certified members voting upon the question.

The next day, (December 11,) Mr. Naylor's right to vote in organizing the house, was decided in the negative: 119 to 112; and the right of Mr. Ingersoll's negatived, by 158 noes, ayes, none. The right of the certified members to vote was denied, the question being taken upon the right of each separately; a part of each set of the New Jersey claimants voting. Mr. Wise's resolution, that the New Jersey members be enrolled and take part in organizing the house, was negatived: ayes, 115; noes 118; Mr. Randolph alone from New Jersey voting. Mr. Rhett then proposed a resolution, that the clerk call the names of all the members whose seats were uncontested, and that the members thus called should be a quorum to settle the claims of members—Mr. Naylor's seat not to be included in the contested seats—and that the quorum should decide the contested elections before proceeding to the election of a speaker.

The next day, (12th,) the clerk completed the calling of the roll of the house. Mr. Randolph then sent to the clerk's table a paper which he wished to be read, and which, after some opposition, was permitted to

he done. Mr. Randolph then moved that this paper—which proved to be a protest of the excluded claimants—be entered upon the journal of the house. After a most bitter denunciation of the paper and the gentleman who presented it, by Mr. Bynum, of North Carolina, and some farther confused debate, the question to enter the protest upon the journal was negatived: ayes, 114; noes, 117. After a variety of other proceedings during this day and the next, a direct vote was taken upon a proposition of Mr. Wise, that the credentials of the certified members from New Jersey were sufficient to entitle them to take their seats in the house, leaving the question of contested election to be afterwards decided by the house: and the result was, an equal division, 117 to 117. So the resolution was lost.

On the day following, (14th,) after sundry proceedings, the members proceeded to the election of speaker, *viva voce*, according to the rule adopted the day before. The name of Mr. Adams having been called, he answered: "Reserving all my rights of objecting hereafter to this election as unconstitutional and illegal, I vote for *John Bell*." A similar protest was made by Mr. Wise. Before the result of the first ballot was announced, the certified New Jersey members successively demanded, that having been legally returned, their votes should be recorded for Mr. Bell; which, of course, was not done. On this ballot, John W. Jones, of Virginia received 113 votes: John Bell, 102; scattering 20. On the 6th trial, Jones received 39; Bell, 21; Dixon H. Lewis, of Alabama, 79; Robert M. T. Hunter, of Virginia, 63. The house then adjourned to Monday, (16th,) when after five more ballots had been taken, Mr. Hunter was declared elected, having received 119 votes out of 232, and Mr. Jones 55. Mr. Hunter, formerly, it is believed, a Jackson man, was now with the opposition, but in favor of the sub-treasury. A clerk was chosen on the 21st; and on the 24th, the president's message was delivered.

On the 28th of February, 1840, the question being still undecided, the committee on elections were instructed to report forthwith which five of the claimants received the greatest number of lawful votes of the whole state, with all the evidence of that fact in their possession. [It will be perceived by the reader that representatives were elected in New Jersey by general ticket.] A report was accordingly made the 5th of March, in favor of the administration members, viz.: Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, and Joseph Kille. The majority of the committee concurring in the report, were, Messrs. Campbell, of S. C.; Rives, (Francis E.), of Virginia, Medill, of Ohio; Brown, of Tennessee; and Fisher, of N. C.

Mr. Fillmore, of the same committee, moved a resolution, that, as the committee had refused to consider evidence referred to them, tending to

show certain illegalities in the election, the report be recommitted. Mr. Petrikin, of Pa., moved an amendment or substitute declaring the administration claimants entitled to take their seats. After several days' debate, (March 10,) the resolution with this amendment was adopted, 111 to 81.

The minority of the committee, Messrs. Fillmore, Botts, of Va., Crabb, of Ala., and Smith, of Conn., published, under date of March 12, an address "to the American people," in which they call attention to an accompanying report, entitled, "The suppressed report of the minority of the committee on elections on the New Jersey case; presented to the house of representatives on the 10th of March, 1840, and, contrary to all precedent, excluded from the house, (its reception and reading being refused, with the previous question pending, and all debate cut off,) by a party vote in the negative." This report purports to set forth minutely the facts of the case, and the action of the committee, and concludes with a protest against what they "conceive to be a most indefensible and unlawful proceeding."

This address and the accompanying report were replied to in an address "to the people of the United States," by the members of the majority, as private individuals, in which they defend themselves against the charges of the minority, and vindicate their report. At a late period of the session, (July,) additional testimony having been received, another report was made by the majority of the committee, declaring the sitting members duly elected; which report was adopted (July 16th): ayes, 102; noes, 22; a large number of the opposition members declining to vote. Many of them had asked to be excused from voting, not having had the means of examining the evidence. It filled a volume of nearly seven hundred pages—was now for the first time laid before the house—and members were to be compelled to decide on an important question without being allowed time to read the testimony or to hear the opposing claimants. Here this long and exciting controversy ended.

At the session of 1839-40, the independent treasury was established. The subject was again presented to congress by Mr. Van Buren in his annual message; and a bill was again reported by Mr. Wright in the senate. Having passed that body, the bill was reported in the house on the 26th of March. The discussion was, as at former sessions, quite protracted, and especially in the house, where it was passed, June 30, by a vote of 124 to 107.

The question then recurring on the title, Mr. Cooper, of Pennsylvania, moved to amend it by striking out the present title, and inserting the following: "A bill to reduce the value of property, the products of the farmer, and the wages of the laborer; to destroy the indebted portion

of the community, and to place the treasury of the nation in the hands of the president." Mr. Cushing, of Massachusetts, moved to amend the amendment so as to read: "An act to enable the public money to be drawn from the treasury without appropriation made by law." An angry and desultory discussion arose between Mr. Cushing and others; and the house was filled with commotion, and could not be restored to order by the speaker, but by the aid of the sergeant-at-arms. The amendments were of course rejected. The title under which the bill was reported was retained: "An act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue."

This act required the payment of all duties, taxes, land sales, and all other government dues, to be made, one-fourth in specie, after the 30th of June, 1840, and an additional one-fourth each successive year, until the whole should become payable in specie. It also provided for the necessary rooms for the treasurer, and vaults and safes for the moneys, and for the appointment of receivers-general; who, with all other officers receiving public moneys, were required to give bonds, with sureties, for the faithful discharge of their duties. It contained such other provisions as were deemed necessary to secure the objects expressed in its title.

The war with the Seminole Indians which had commenced in 1835, had not yet been brought to a termination. This small tribe, numbering only about 2000 capable of bearing arms, had for nearly five years baffled the attempts of our army to reduce them to submission. In 1840, a bill was reported to the senate by Mr. Benton, from the committee on military affairs, to provide for the armed occupation and settlement of that part of Florida which was infested by these marauding bands of hostile Indians. It was hoped in this way to effect their extirpation, and thus to rid the territory of an enemy whom the government had hitherto been unable to subdue. This bill proposed grants of land to settlers, not exceeding ten thousand men able to bear arms, three hundred and twenty acres each. The settlements were to be in stations, each including not less than forty nor more than one hundred men. This bill did not become a law.

In the winter of 1839-40, it was announced that a pack of bloodhounds had been imported from Cuba to scent the Indians, and thus aid in their capture. The employment of brute beasts as allies against savages, was regarded as in the highest degree dishonorable to the government of a civilized and Christian people; and numerous memorials remonstrating against the use of these animals were presented to congress. On a motion by Mr. Buchanan to refer these petitions to the military committee, a debate arose, in which Mr. Benton stated, that this matter had only been asserted by the opposition newspapers and

that it ought to have been known that the government had expressly repudiated the employment of bloodhounds in the war. Mr. Lumpkin, of Georgia, thought their use by the people of Florida was justified by the frequent murders and the destruction of property committed by the Indians. Contradictory accounts were for a time given respecting the efficiency of these hounds. After repeated trials, their use was abandoned.

On the 10th of May, 1842, the senate received a communication from the president, (Mr. Tyler,) proposing a different course of measures in relation to the Indians in Florida. Their number had been reduced by surrender and capture to a few hundred; less than one hundred of whom were warriors, or males capable of bearing arms. The president thought the farther pursuit of these miserable beings by a large military force as injudicious as unavailing. Their mode of warfare, their dispersed condition, and the smallness of their numbers, which increased the difficulty of finding them in their almost inaccessible hiding places, rendered any farther attempt to subdue them by force impracticable, except by the employment of the most expensive means. And coinciding with the views of the commanding officer there, the governor of the territory, and other persons, he had determined to resort to peaceable means, with the view of inducing them to a voluntary surrender, and removal to the west. He thought it desirable that settlements should be made similar to those contemplated by the bill of Mr. Benton, in 1840, providing for the occupation of the soil of the frontiers of the territory. An act for this purpose was accordingly passed at this session. It offered to any head of a family or any single man over eighteen years of age, able to bear arms, and making an actual settlement, one quarter section of land, on certain conditions, one of which was that he should reside on the same for four years, erect a house fit for habitation, and clear, inclose, and cultivate at least five acres of land.

The war may be considered as having been terminated by this cessation of hostilities on the part of the United States. Only a few acts of violence were afterwards committed; and by occasional surrenders and removal, the territory was left in the peaceable possession of its white inhabitants. Settlements under the act of congress before mentioned, were made, in the meantime, with great rapidity. The act was to continue in force but one year, during which time the 200,000 acres granted by the government were all, or nearly all, taken up.

The expense of this war, considering the very small number of the Indians, was enormous, amounting to about *twenty millions of dollars*

CHAPTER LX.

PRESIDENTIAL ELECTION OF 1840.—CLAIMS ON MEXICO.—CLOSE OF MR. VAN BUREN'S ADMINISTRATION.

THE whig national nominating convention met at Harrisburg on the 4th of December, 1839. James Barbour, of Virginia, presided. On the third day, the 6th of December, the nominations were made. Of the 254 votes, William Henry Harrison received 148; Henry Clay, 90; and Winfield Scott, 16. Mr. Clay was preferred by a plurality of the delegates; but many of his friends, considering him less available as a candidate than Gen. Harrison, consented to the adoption of the latter. John Tyler received as a candidate for vice-president, 231 votes, being all that were cast. The delegates from Virginia, of whom Mr. Tyler was one, at his request, did not ballot for vice-president. The delegations from the several states balloted separately. All the states were represented except South Carolina, Georgia, Tennessee, and Arkansas. The convention adjourned on the 4th day of its session.

The democratic convention was held at Baltimore, the 5th of May, 1840, being represented by twenty-one states. Mr. Van Buren, as was expected, was unanimously nominated for president. No nomination for vice-president was made; each state being left to make a nomination for itself.

The abolitionists, who had hitherto voted according to their former party attachments, now brought into the field candidates of their own. A meeting of the Western New York anti-slavery society was held at Warsaw in November, 1839, at which was discussed the propriety of making nominations; and, although this was not among the objects for which the convention had been called, the proposition was adopted. James G. Birney, of New York, formerly of Alabama, was nominated for president, and Francis J. Lemoyne, of Pennsylvania, for vice-president.

The presidential canvass of 1840 was unusually spirited. There had been during a great part of Mr. Van Buren's administration, a pressure in the money market; and a general depression in business affairs. This state of things was ascribed to the interference of the government with the currency. The bank of the United States had been destroyed; and notwithstanding its capital continued to be employed, under a charter from the state of Pennsylvania, state bank capital had been enormously increased; having been tripled or quadrupled. Much of the paper issued by these banks had greatly depreciated, and that of many of them

had become worthless. In Mississippi, where, in 1830, there was, besides the branch of the United States bank, but one chartered bank, with a capital of less than one million of dollars, in 1838, the chartered bank capital of that state had reached upward of *sixty millions*. The excessive issue of bank paper had been followed by its natural result, the suspension of specie payments, which was at this time still continued in some states, especially in the western and south-western states. And where suspension had ceased, it was necessary for the banks greatly to restrict their issues.

But the whigs found other causes than "experiments" upon the currency, to which to attribute the public distress. The lowest rates of duties contemplated by the compromise tariff of 1833, had nearly been reached; and for the want of adequate protection, domestic manufactures had been to a great extent superseded by importations, which were draining the country of its specie; the consequences of which were the inability of the banks to supply the business wants of the community, and at the same time to diminish the demand for labor.

This depressed condition of the country contributed essentially to the success of the whig party. Many who had approved the policy of the administration, began to doubt the wisdom of its measures. A still greater number, unable to either trace existing evils to their true source, or to judge intelligently in relation to any proposed remedy, were disposed to try a change of policy, under the persuasion that it could not well be for the worse. True, the measures of the administration were but a continuation of the policy of that which preceded it; but, although the principles of the two administrations were the same, Gen. Jackson and Mr. Van Buren were different persons. Although the latter was pledged to tread in "the footsteps of his illustrious predecessor," he found it impossible to carry with him his popularity. Gen. Jackson was the 'hero of two wars;' Mr. Van Buren had never in this way "exposed himself to the enemy." No measure of statesmanship could afford him half the advantage which his predecessor derived from the single victory of New Orleans. Here, his competitor had a vast advantage. He, like Gen. Jackson, had a military fame. He, too, had fought the Indians. The battle of Tippecanoe, however inferior, as a military achievement to the battle of New Orleans, furnished the whigs with an amount of political capital scarcely less than their opponents had found in the crowning act of the military career of their former candidate. Log cabins were doing for the whig cause what had been done by hickory poles in other contests for "the democracy"—controlling the votes of thousands who want the disposition or the capacity for intelligent investigation.

Not the least of the advantages of the whigs in this campaign was, that their candidate had been taunted with having dwelt in a "log cabin," and used "hard cider" as a beverage. At least they charged upon their opponents the attempt thus to disparage him. Hence, the term "log cabin" was seized upon, and became the great talismanic word of the party, the effect of which all the arts of the "little magician" were insufficient to counteract. Miniature log cabins were a part of the paraphernalia got up to give effect to the mass meetings, which were not unfrequently measured by acres. These rude structures, decorated with 'coon skins, were also erected of sufficient dimensions for the accommodation of the local assemblages. There was scarcely a city or village which was not adorned with an edifice of this description. And the number was "legion" of those who traced their conversion to the "new light" emitted from these political forums.

It is, however, believed to be due to the American people to say, that thousands who participated in these fantastic exhibitions, would regret their recurrence. The idea of having recourse to such measures to promote an election, presupposes the lack of that popular intelligence which is the boast of our nation, and is made the subject of panegyric by every public orator. It is seriously doubted whether any immediate benefit secured by such means compensates for their debasing effect upon the public mind, or their reflection upon the national dignity. In the present instance, although the majorities were thus doubtless increased, the same general result would have been attained without a resort to the extraordinary measures which appear to be liable to the objections above mentioned.

Mr. Tyler, at an early period of this administration, as will be seen, disappointed the expectations, and lost the confidence of the party that elected him. He was charged with a gross and wanton violation of his pledges to the party, and of the principles upon which he had been elected. Of the grounds of this charge, his former political course may help us to judge. He had been identified with the Virginia school of politicians. In 1824, in common with his fellow-citizens of that state, he supported Mr. Crawford for president. Preferring, however, Mr. Adams to Gen. Jackson, he wrote a letter to Mr. Clay, approving his vote in the house of representatives in favor of Mr. Adams. Soon after the election of Mr. Adams, he went over with the friends of Mr. Crawford to the support of Gen. Jackson. He was in favor of a strict construction of the constitution, and was therefore opposed to a tariff for protection, and to internal improvements by the general government, approving Gen. Jackson's vetoes of the Maysville road bill and other similar bills. He opposed, when in the senate, the renewal of the charter

of the bank of the United States. He favored the doctrine of the South Carolina nullifiers in relation to state rights; and turned against Gen. Jackson for putting down nullification in that state. He opposed the force bill, both by a vehement speech and by his vote. He became attached to the Calhoun party in the senate, who united with the whigs in opposing the course of the president in assuming the power of controlling the deposit of the public moneys, although he was opposed to the bank on the ground of its unconstitutionality. He voted for Mr. Clay's resolutions charging Gen. Jackson with usurpation of power in directing the removal of the deposits. Thus far, therefore, Mr. Tyler is found to have adhered to the distinctive views of the party opposed to the whigs, having separated from his former friends only on the sub-treasury and other financial questions.

He was appointed a delegate to the whig national convention held in December, 1839, and expressed, as is said, his preference for Mr. Clay. This fact, in connection with subsequent professions or declarations, were regarded as at least an implied pledge of support to the whig party. The selection of a candidate for vice-president from the state rights branch of the whig party, was a matter of policy; and as that officer is not intrusted with administrative power, entire conformity of his principles with those of the whigs was regarded as comparatively unimportant. Their indifference on this point, however, they soon had occasion to regret.

Of the electoral votes at the ensuing election, the whig candidates received each 234. Mr. Van Buren received 60; R. M. Johnson, for vice-president, 48; L. W. Tazewell, of Virginia, 11; and James K. Polk, 1.

The claims of the United States upon Mexico for injuries to the persons and property of our citizens, remained unadjusted. A convention was made between the two governments in September, 1838, by which it was agreed to refer these claims to a board of commissioners, of whom two were to be appointed by each party; and in case of a difference of opinion, the question was to be submitted for decision to the king of Prussia, or an arbiter to be appointed by him; the ratifications to be exchanged on or before the 10th of February, 1839. This day passed without the performance of this part of the obligation on the part of Mexico. Reasons were assigned which were unsatisfactory to the committee on foreign relations, to whom this subject had been referred, and who reported resolutions to the house, declaring these reasons insufficient; expressing the hope that, in view of the unreasonable procrastination on the part of Mexico hitherto, the minister who was about to be sent to that country, would press for a speedy settlement of the demands so repeatedly but ineffectually made; and declaring the impatient expect-

tation, by the house, of the result of the mission, and its determination, if it should prove unavailing, to sustain the executive in any ulterior measures that might be deemed necessary.

One of the reasons assigned by Mexico for not presenting to its congress the convention providing for the settlement of claims; was the belief that the king of Prussia would decline the office of arbitrator in case of the disagreement of the commissioners. The president, in his next annual message to congress, December, 1839, considered this reason unsatisfactory; but he did not hesitate, in the most conciliatory spirit, to receive it in explanation; and he had consented to a new convention, for which purpose Mr. Ellis had been directed to repair to Mexico; and diplomatic intercourse had been resumed. In 1842, a treaty was concluded, the ratifications to be exchanged at Washington, within three months from its date, if congress should be in session; if not, then within one month after the commencement of the next session. The amount awarded to claimants, as stated by the president in his message in December, 1842, was \$2,026,079, leaving a large amount of claims, submitted to the board too late for consideration, still to be determined. The first payment, \$270,000—the interest on the sum awarded—was to be made the 30th of April, 1843. The whole was to be paid in five years, quarterly, in gold and silver, in the city of Mexico.

At the last session of congress under Mr. Van Buren's administration, few acts of great importance were passed.

A new issue of treasury notes was authorized, not to exceed five millions at any one time outstanding. The sum of \$75,000 was appropriated for the survey of that part of the north-eastern boundary line which separates the states of Maine and New Hampshire from the British provinces.

The most prominent characteristic of Mr. Van Buren's administration, was its consummation of what was begun by his predecessor—the separation of the government from the banks, or, as it has been termed, the “divorce of bank and state;” a policy which existed just long enough to prostrate the party which brought it into being; which expired with the elevation of the opposing party—was revived with the restoration of “the democracy;” and has since continued, through changes of administration, undisturbed; having received the general acquiescence of the popular will, if not the positive approval of the public judgment.

CHAPTER LXI.

INAUGURATION OF GENERAL HARRISON.—HIS DEATH.—INAUGURATION OF MR. TYLER.—EXTRA SESSION OF CONGRESS.—BANK VETOES.—DISSOLUTION OF THE CABINET.

GENERAL HARRISON was inaugurated as president of the United States, on the 4th of March, 1841. On no similar occasion, probably, was there ever a greater concourse of people, or a more enthusiastic expression of popular feeling. The inaugural address was one of more than ordinary length. It contains a review of the leading features of our political system, points out the evils which have grown out of the administration of the government, and what he considered defects in the constitution.

General Harrison apprehended "less danger to our institutions from usurpation, by the government, of power not granted by the people, than from the accumulation, in one of the departments, of that which was assigned to others. Limited as are the powers which have been granted, still enough have been granted to constitute a despotism, if concentrated in one of the departments. This danger is greatly heightened, as it has always been observable, that men are less jealous of encroachments of one department upon another, than upon their own reserved rights."

One of the defects of the constitution, he considered to be the eligibility of an individual to a reëlection as president. One mode of correction, however, was in the power of every president—the refusing to accept the office for a second term.

There was also danger to public liberty "from a misconstruction of that instrument as it regards the powers actually given." He proceeds to apply this remark to the veto. He says: "I can not conceive that, by fair construction, any or either of its provisions would be found to constitute the president a part of the legislative power. It cannot be claimed, from the power to recommend, since, although enjoined as a duty upon him, it is a privilege which he holds in common with every other citizen. And although there may be something more of confidence in the propriety of the measures recommended in the one case than in the other, in the obligations of ultimate decision there can be no difference. In the language of the constitution, 'all the legislative powers' which it grants 'are vested in the congress of the United States.' It would be a solecism in language to say that any portion of these is not included in the whole.

"It may be said, indeed, that the constitution has given to the executive the power to annul the acts of the legislative body by refusing to them his assent. So a similar power has necessarily resulted from that instrument to the judiciary; and yet the judiciary forms no part of the legislature. There is, it is true, this difference between these grants of power: the executive can put his negative upon the acts of the legislature, for other than want of conformity to the constitution, while the judiciary can only declare void those which violate that instrument. But the decision of the judiciary is final in such a case, whereas, in every instance where the veto of the executive is applied, it may be overcome by a vote of two-thirds of both houses of congress. The negative upon the acts of the legislative, by the executive authority, and that in the hands of one individual, would seem to be an incongruity in our system. Like some others of a similar character, however, it appears to be highly expedient; and if used only with the forbearance and in the spirit which was intended by its authors, it may be productive of great good, and be found one of the best safeguards to the union."

A provision so apparently repugnant to the leading democratic principle, that the majority should govern, could not, he thinks, have been intended by the framers to justify the exercise of this power in the ordinary course of legislation. He says: "It is preposterous to suppose that a thought could for a moment have been entertained, that the president, placed at the capital, in the centre of the country, could better understand the wants and wishes of the people, than their own immediate representatives, who spend a part of every year among them, living with them, often laboring with them, and bound to them by the triple tie of interests, duty, and affection. To assist or control congress, then, in its ordinary legislation, could not, I conceive, have been the motive for conferring the veto power on the president. This argument acquires additional force from the fact of its never having been thus used by the first six presidents, and two of them were members of the convention, one presiding over its deliberations, and the other having a larger share in consummating the labors of that august body than any other person. But if bills were never returned to congress by either of the presidents above referred to, upon the ground of their being inexpedient, or not as well adapted as they might be to the wants of the people, the veto was applied upon that want of conformity to the constitution, or because errors had been committed from a too hasty enactment."

One object of the veto power, he presumed, was to secure "a just and equitable action of the legislature upon all parts of the union." Congress might favor particular classes of people, or local interests. "It was proper, therefore, to provide some umpire, from whose situation

and mode of appointment more independence and freedom from such influences might be expected. Such a one was afforded by the executive department, constituted by the constitution. A person elected to that high office, having his constituents in every section, state, and subdivision of the union, must consider himself bound by the most solemn sanctions, to guard, protect, and defend, the rights of all, and of every portion, great or small, from the injustice and oppression of the rest. I consider the veto power, therefore, given by the constitution to the executive of the United States, solely as a conservative power: to be used only, 1st, to protect the constitution from violation; 2dly, the people from the effects of hasty legislation, where their will has been probably disregarded or not well understood; and, 3rdly, to prevent the effects of combinations violative of the rights of the minorities. In reference to the second of these objects, I may observe that I consider it the right and privilege of the people to decide disputed points of the constitution, arising from the general grant of power to congress to carry into effect the powers expressly given. And I believe, with Mr. Madison, 'that repeated recognitions under varied circumstances, in acts of the legislative, executive, and judicial branches of the government, accompanied by indications in different modes of the concurrence of the general will of the nation, afford to the president sufficient authority for his considering such disputed points as settled.'"

He adverts to the power of the president "as the sole distributor of all the patronage of the government. The framers of the constitution do not appear to have anticipated at how short a period it would become a formidable instrument to control the free operations of the state governments." It is not difficult to perceive to whom and to what measures the following extract was intended to apply: "But it is not by the extent of its patronage, alone, that the executive department has become dangerous, but by the use which it appears may be made of the appointing power, to bring under its control the whole revenues of the country. The constitution has declared it to be the duty of the president to see that the laws are executed, and it makes him the commander-in-chief of the armies and navy of the United States. If the opinion of the most approved writers upon that species of mixed government, which, in modern Europe, is termed *monarchy*, in contradistinction to *despotism*, is correct, there was wanting no other addition to the powers of our chief magistrate to stamp a monarchical character on our government, but the control of the public finances. And to me it appears strange indeed, that any one should doubt that the entire control which the president possesses over the officers who have the custody of the public money, by the power of removal with or without cause, does, for all

mischievous purposes at least, virtually subject the treasure also to his disposal.

"I am not insensible of the great difficulty that exists in devising a proper plan for the safe keeping and disbursement of the public revenues, and I know the importance which has been attached by men of great abilities and patriotism to the divorce, as it is called, of the treasury from the banking institutions. It is not the divorce which is complained of, but the unhallowed union of the treasury with the executive department which has created such extensive alarm. To this danger to our republican institutions, and that created by the influences given to the executive through the instrumentality of the federal officers, I propose to apply all the remedies which may be at my command. It was certainly a great error in the framers of the constitution, not to have made the officer at the head of the treasury department entirely independent of the executive. He should at least have been removable only upon the demand of the popular branch of the legislature. I have determined never to remove a secretary of the treasury without communicating all the circumstances attending such removal to both houses of congress. * * * Never, with my consent, shall an officer of the people, compensated for his services out of their pockets, become the pliant instrument of executive will."

He also discusses the question of the currency. "The idea of making it exclusively metallic, however well intended, appears to me to be fraught with more fatal consequences than any other scheme, having no relation to the personal rights of the citizen, that has ever been devised. If any single scheme could produce the effect of arresting, at once, that mutation of condition by which thousands of our most indigent fellow-citizens, by their industry and enterprise, are raised to the possession of wealth, that is one. If there is one measure better calculated than another to produce that state of things so much deprecated by all true republicans, by which the rich are daily adding to their hoards, and the poor are sinking deeper into penury, it is an exclusive metallic currency. Or if there is a process by which the character of the country for generosity and nobleness of feeling may be destroyed by the great increase and necessary toleration of usury, it is an exclusive metallic currency."

He deprecates the agitation of the question of slavery, and thus inculcates a spirit of forbearance: "Our citizens must be content with the exercise of the powers with which the constitution clothes them. The attempt of those of one state to control the domestic institutions of another, can only result in feelings of distrust and jealousy, and are certain harbingers of disunion, violence, civil war, and the ultimate destruction of our free institutions. Our confederacy is perfectly illus

trated by the terms and principles governing a common copartnership. There a fund of power is to be exercised under the direction of the joint counsels of the allied members, but that which has been reserved by the individuals is intangible by the common government, or the individual members composing it. To attempt it, finds no support in the principles of our constitution. It should be our constant and earnest endeavor mutually to cultivate a spirit of concord and harmony among the various parts of our confederacy. Experience has abundantly taught us that the agitation by citizens of one part of the union of a subject not confided to the general government, but exclusively under the guardianship of the local authorities, is productive of no other consequences than bitterness, alienation, discord, and injury to the very cause which is intended to be advanced. Of all the great interests which appertain to our country, that of union—cordial, confiding, fraternal union—is by far the most important, since it is the only true and sure guarantee of all others."

Passing over several topics of the address, we copy the following paragraph: "I deem the present occasion sufficiently important and solemn to justify me in expressing to my fellow-citizens a profound reverence for the Christian religion, and a thorough conviction that sound morals, religious liberty, and a just sense of religious responsibility are essentially connected with all true and lasting happiness; and so that good Being who has blessed us by the gifts of civil and religious freedom, who watched over and prospered the labors of our fathers, and has hitherto preserved to us institutions far exceeding in excellence those of any other people, let us unite in fervently commending every interest of our beloved country in all future time."

President Harrison made choice of the following named persons as members of his cabinet: Daniel Webster, of Massachusetts, secretary of state; Thomas Ewing, of Ohio, secretary of the treasury; John Bell, of Tennessee, secretary of war; George E. Badger, of North Carolina, secretary of the navy; Francis Granger, of New York, post-master-general; John J. Crittenden, of Kentucky, attorney-general.

The state of the currency and finances being such as, in the opinion of the president, required immediate attention, he issued a proclamation on the 17th of March, convening congress on the last Monday (31st) of May.

No administration had a more auspicious commencement than that of president Harrison, and no other has had so brief an existence. Before it could be said to have acquired any positive character, it was terminated. After an illness of eight days, the new president died, on the 4th of April, at the executive mansion in the city of Washington. In just one month from the day the executive duties were assumed, they passed unexpectedly into the hands of an accidental successor. By virtue of a

provision of the constitution, John Tyler, the vice-president, became the president of the United States.

The inaugural address of Mr. Tyler was short; the usual opportunity of preparing one not having, under the peculiar circumstances which had brought him into office, been afforded him. In regard to foreign nations, his policy would be both to render and to demand justice. As the tendency of human institutions was to concentrate power in the hands of a single man, "a complete separation should take place between the sword and the purse. No matter where or how the public moneys shall be deposited, so long as the president can exert the power of appointing and removing, at his pleasure, the agents selected for their custody, the commander-in-chief of the army and navy is in fact the treasurer. A permanent and radical change should therefore be decreed. * * * The right to remove from office, while subjected to no just restraint, is inevitably destined to produce a spirit of crouching servility with the official corps, which, in order to uphold the hand which feeds them, would lead to direct and active interference in the elections, both state and federal, thereby subjecting the course of state legislation to the dictation of the chief executive officer, and making the will of that officer absolute and supreme. * * * I will remove no incumbent from office who has faithfully and honestly acquitted himself of the duties of his office, except in cases where such officer has been guilty of an active partisanship, or by secret means—the less manly, and therefore the more objectionable—has given his official influence to the purposes of party, thereby bringing the patronage of the government into conflict with the freedom of elections."

He said, a rigid economy in all public expenditures should be observed, and all sinecures should be abolished. War between the government and the currency should cease. He "regarded existing enactments as unwise and impolitic, and in a high degree oppressive;" and he would "promptly give his sanction to any constitutional measure, which, originating in congress, should have for its object the restoration of a sound circulating medium, so essentially necessary to give confidence in all the transactions of life, to secure to industry its just and adequate rewards, and to reestablish the public prosperity. In deciding upon the adaptation of any such measure to the end proposed, as well as its conformity to the constitution," he would "resort to the fathers of the great republican school for advice and instruction, to be drawn from their sage views of our system of government, and the light of their ever glorious example."

No change in the cabinet as constituted by Gen. Harrison, was made by Mr. Tyler.

Pursuant to the proclamation of president Harris, the 27th congress assembled in special session, on the 31st of May, 1841. The principal subjects presented in the message of the president, were those of the revenue, and of a suitable fiscal agent, capable of adding increased facilities in its collection and disbursement. The deficit in the available funds in the treasury to meet the wants of the government for the year, was estimated at nearly eleven and a half millions; for which some temporary provision was necessary. He advised congress, in providing for the wants of the treasury, not to alter the compromise act of March, 1833. He reviewed the course of the two preceding administrations in relation to the public moneys, and stated the effects of that policy. As to the question whether existing evils would be remedied by a national bank, he expressed no opinion. He considered Gen. Jackson to have been sustained by the popular vote in his opposition to the bank. The employment of the state banks as fiscal agents had been abandoned by its early advocates, and, he believed, had also been condemned by popular sentiment. And, lastly, the sub-treasury had been condemned in a manner too plainly indicated to admit of a doubt. He concludes this part of the message as follows:

“What is now to be regarded as the judgment of the American people on this whole subject, I have no accurate means of determining but by appealing to their more immediate representatives. The late contest, which terminated in the election of General Harrison to the presidency, was decided on principles well known and openly declared; and while the sub-treasury received in the result the most decided condemnation, yet no other scheme of finance seemed to have been concurred in.

“To you, then, who have come more directly from the body of our common constituents, I submit the entire question, as best qualified to give a full exposition of their wishes and opinions. I shall be ready to concur with you in the adoption of such system as you may propose, reserving to myself the ultimate power of rejecting any measure which may, in my view of it, conflict with the constitution, or otherwise jeopard the prosperity of the country—a power which I could not part with even if I would, but which I will not believe any act of yours will call into requisition. * * *

“With the adoption of a financial agency of a satisfactory character, the hope may be indulged, that the country may once more return to a state of prosperity: measures auxiliary thereto, and in some measure inseparably connected with its success, will doubtless claim the attention of congress. Among such, a distribution of the proceeds of the sales of the public lands, provided such distribution does not force upon congress the necessity of imposing upon commerce heavier burdens

than those contemplated by the act of 1833, would act as an efficient remedial measure, by being brought directly in aid of the states."

John White, a whig member from Kentucky, was elected speaker of the house of representatives. The election was made *viva voce*. The vote was for White, 121; for John W. Jones, of Virginia, 84; scattering 16. There was also a whig majority in the senate.

Bills were introduced for the repeal of the sub-treasury, and for the incorporation of a "fiscal bank," as the proposed institution was to be called. The former of these bills was ordered to be engrossed in the senate, by a vote of 30 to 16; and was afterward passed, (June 9,) 29 to 18. It passed the house on the 9th of August, 134 to 87, and became a law by the approval of the president on the 13th. This act contained a provision making it a felony for any officer charged with the safe-keeping, transfer, or disbursement of the public revenue, to convert it to his own use; or to loan it with or without interest; or to make an investment of it in any manner. This section was designed to prevent defalcations, of which there were so large a number, and for so very large an amount, during the administration of Mr. Van Buren. [Appendix, Note M.]

The secretary of the treasury, in his report accompanying the president's message, recommended the establishment of a bank. The president having signified to some of his friends a desire that the secretary of the treasury should be called on for a plan, a call to this effect was moved in both houses: in the house, on the 3d of June; in the senate, on the 7th. The report of the secretary was accordingly made on the 12th. With a view to free the proposed bank from constitutional objection, it was to be incorporated in the District of Columbia, with power to establish branches only with the assent of the states. Its title was to be "The fiscal bank of the United States."

In the senate, that part of the message relating to the currency and a fiscal agent for the government, was referred to a select committee, of which Mr. Clay was chairman, who, on the 21st of June, reported a bill based on the plan of the secretary. The leading features of the bill were the following:

To guard against the exercise of any undue government or official influence, or the imputation of any unworthy transactions, the parent bank was prohibited from making discounts or loans, except loans to the government authorized by express law.

The capital of the bank was to be thirty millions, to be increased, if congress should find it necessary, to fifty millions.

To guard against undue expansion of the currency, the dividends were limited to seven per cent., the excess, beyond losses and contingencies

to be paid into the treasury. The debts due the bank were not to exceed the amount of the capital stock paid in, and 75 per cent. thereon. It was not to contract debts exceeding twenty-five millions over and above its deposits. A free examination of its books was secured. It prohibited the renewal of loans, thus confining the bank to fair business transactions. Discounts or loans were to stop whenever its notes in circulation should exceed three times the amount of its specie in its vaults.

To protect the community and the stockholders against mismanagement, loans to its officers were forbidden. Voting by proxy was restricted. Dealing in stocks, and all commercial operations by the bank, were prohibited. A majority of the whole board of directors was necessary to transact business. Embezzlement of the funds of the bank by any of its officers or agents was made a punishable offense.

The bill was under debate in the senate until the 28th of July, when, after some amendment, it passed that body, 26 to 23. It passed the house of representatives on the 6th of August, 128 to 97. It was retained by the president until the 16th, and returned with a *veto*. This was not altogether unexpected, as it had been ascertained by private interviews with him, that he was not satisfied with the bill.

The following were the objections of the president to the bill:

It created a national bank to operate *per se* over the union. The power of congress to incorporate such a bank had been in dispute from the origin of the government. He had for twenty-five years uniformly proclaimed his opinion to be against the exercise of such a power. With a knowledge of his opinions, the people had elected him to the office of vice-president. He had providentially become president; he was sworn to support the constitution; and it would be criminal to give his sanction to the bill.

He objected to its being made a bank of discount. The right to discount was not necessary to enable the government to collect and to disburse the public revenue, and incidentally to regulate the commerce and exchanges. Local discounts had nothing to do with this business. To be free from constitutional objection, it must be confined to dealing in exchanges.

Another objection was, that the assent of the states was not sufficiently secured. The directors were required to establish an office of discount and deposit in any state in which two thousand shares should have been subscribed; and it might be done in any state giving its assent; and such assent was to be presumed, if the state did not at the first session after the establishment of such office, unconditionally declare its assent or dissent. And once established, whatever might prevent a state from speaking within the time prescribed, its assent was to be

implied ; and the branch once established could not be withdrawn but by order of congress.

The course of the president was regarded by the whigs as inexplicable. Whatever may have been his former views in regard to a bank, they were warranted in inferring that Mr. Ewing's plan was acceptable to him ; and there was no constitutional objection stated in the veto that did not equally apply to Mr. Ewing's bill. Anxious to prevent a rupture in the party, as well as to secure to the country the benefits of a bank, its friends resolved to prepare a bill which should insure the concurrence of the president. Not only was the message examined, but a deputation, consisting of Mr. Berrien, of the senate, and Mr. Sergeant, of the house, was sent to learn definitely what kind of a bill he would sanction. A new bill was prepared, reported in the house, and on the 23d of August was passed without alteration, 125 to 94. It was passed in the senate on the 3d of September, 27 to 22. This bill also was negatived by the president. The title of the last bill was "An act to provide for the better collection, safe-keeping, and disbursement of the public revenue, by means of a corporation to be styled, the fiscal corporation of the United States."

The bill having been framed with special reference to the wishes of the president, and after a consultation with him by a majority of the members of his cabinet, the second veto was received with surprise. It was sent to the house on the 9th of September. On the 11th, all the cabinet officers, except Mr. Webster, sent in their resignations. Secretary Ewing, in his letter to the president, gives a detailed statement of the conversation at the cabinet meeting referred to, from which it appears that the president had expressed his approval of the bill.

Mr. Ewing states that the bill he reported to congress had been made to meet the president's approbation. But in consequence of the changes it had undergone, he was not surprised at its being disapproved. On the 16th, the president read to Messrs. Ewing and Bell a portion of the message which he was then preparing ; and, in reply to the remark of Mr. Bell, that the minds of their friends were better prepared for the veto than they had been, he said, there ought to be no difficulty about it ; he had indicated in the message what kind of a bank he would approve, and congress might pass such a one in three days.

On the 18th, at the cabinet meeting, Messrs. Crittenden and Granger only absent, the president expressed a wish that congress would postpone the subject until the next session. Mr. Badger expressed the belief that congress was ready to take up the bill reported by Mr. Ewing, and pass it at once. The president replied : "Talk not to me of Mr. Ewing's bill ; it contains that odious feature of local discounts, which I have

repudiated in my message." Mr. Ewing thought the house, having ascertained the president's views, would pass a bill in conformity to them, if they were satisfied that it would answer the purposes of the treasury, and relieve the country. The president expressed a wish that the cabinet would stand by him in this emergency, and procure the passage of a bill which he could approve without inconsistency. Having stated his objection to offices of discount and deposit in the several states, even with their assent, Mr. Ewing said he understood him to be of opinion that the bank might establish agencies in the states to deal in bills of exchange without their assent. To which he replied: "Yes, if they are foreign bills, or bills drawn in one state and payable in another. That is all the power necessary for transmitting the public funds, and regulating the exchanges and the currency."

Mr. Webster expressed the opinion that such a charter would answer the purposes of the government, and satisfy the people; and he preferred it to any other plan proposed, as it did not require the assent of the states to an institution necessary to carry on the fiscal operations of government. He examined it both as to its constitutionality, and its influence on the currency and the exchanges. The president concurred in these views, and desired that such a bill should be introduced, and that it should go into the hands of some of his friends; and he assented to the selection of Mr. Sergeant. The details of the bill were agreed on; and to satisfy the president, the word *corporation* was substituted for "bank." Mr. Ewing having suggested that this would probably be made the subject of ridicule, the president insisted on the change, saying there was much in a name; and the institution ought not to be called a bank. At his request, Mr. Webster and Mr. Ewing both called on Messrs. Berrien and Sergeant, with whom the bill was arranged. It was afterward examined by the president, and by him assented to as it finally passed.

Mr. Ewing farther narrates as follows: "You asked Mr. Webster and myself each to prepare and present you an argument touching the constitutionality of the bill; and before those arguments could be prepared and read by you, you declared, as I heard and believe, to gentlemen, members of the house, that you would cut off your right hand rather than approve it. After this new resolution was taken, you asked and earnestly urged the members of your cabinet to postpone the bill; but you would neither give yourself, nor suffer them to give, any assurance of your future course, in case of such postponement. By some of us, and I was myself one, the effort was made to gratify your wishes, in the only way in which it could be done with propriety; that is, by obtaining the general concurrence of the whig members of the two

houses in the postponement. It failed, as I have reason to believe, because you would give no assurance that the delay was not sought as a means and occasion for hostile movements. During this season of deep feeling and earnest exertion upon our part, while we were zealously devoting our talents and influence to serve and to sustain you, the very secrets of our cabinet councils made their appearance in an infamous paper, printed in a neighboring city, the columns of which were daily charged with flattery of yourself and foul abuse of your cabinet. All this I bore; for I felt that my services, so long as they could avail, were due to the nation—to that great and magnanimous people whose suffrages elevated your predecessor to the station which you now fill, and whose united voices approved his act when he summoned us around him, to be his counsellors. I felt that what was due to his memory, to the injunctions which he left us in his last dying words, and to the people, whose servants we were, had not all been performed until every means was tried, and every hope had failed of carrying out the true principles upon which the mighty movement was founded that elevated him and you to power.

“This bill, framed and fashioned according to your own suggestions, in the initiation of which I and another member of your cabinet were made by you the agents and negotiators, was passed by large majorities through the two houses of congress, and sent to you, and you rejected it. Important as was the part which I had taken, at your request, in the origination of this bill, and deeply as I was committed for your action upon it, you never consulted me on the subject of the veto message. You did not even refer to it in conversation, and the first notice I had of its contents was derived from rumor.

“And to me, at least, you have done nothing to wipe away the personal indignity arising out of the act. I gathered, it is true, from your conversation, shortly after the bill had passed the house, that you had a strong purpose to reject it; but nothing was said like softening or apology to me, either in reference to myself or to those with whom I had communicated at your request, and who had acted themselves and induced the two houses to act upon the faith of that communication. And, strange as it may seem, the veto message attacks in an especial manner the very provisions which were inserted at your request; and even the name of the corporation, which was not only agreed to by you, but especially changed to meet your expressed wishes, is made the subject of your criticisms. * * *

“The subject of a bank is not new to you; it is more than twenty years that you have made it an object of consideration and of study, especially in its connection with the constitutional powers of the general

government. You, therefore, could not be, and you were not, taken unprepared on this question. The bill which I reported to congress, with your approbation, at the commencement of the session, had the clause relating to agencies, and the power to deal in exchanges, as strongly developed, as the one you have now rejected, and equally without the assent of the states. You referred specially and with approbation to that clause, many days after, in a conversation, held in the department of state. You sanctioned it in this particular bill as detailed above. And no doubt was thrown out on the subject by you, in my hearing, or within my knowledge, until the letter of Mr. Botts came to your hands. Soon after the reading of that letter, you threw out strong intimations that you would veto the bill if it were not postponed. That letter I did and do most unequivocally condemn, but it did not affect the constitutionality of the bill, or justify you in rejecting it on that ground."

The statements of Mr. Ewing were confirmed by letters from Mr. Badger and Mr. Bell, the secretaries of the navy and of war, to the editors of the National Intelligencer. Mr. Bell is more full than Mr. Ewing, upon some of the topics discussed at the cabinet meeting alluded to. Mr. Clay had expressed the opinion—in which the members of the cabinet probably concurred—that the assent or dissent of the states to the establishment of branches in them, did not affect the question of the constitutionality of a national bank. Mr. Tyler, however, seemed to think otherwise; but he agreed with them that if that objection could be avoided, it was highly desirable that the institution, being an agent of the general government, should be independent of the will of the states. And he desired the opinion of his cabinet upon the question, whether, without the power of discount and deposit, the distinction between the old bank and the one proposed was not sufficient to make a difference as to the constitutional question, and to render his approval of the latter consistent with his former expressed opinions on the subject of a national bank. He was apparently satisfied, that a bank restricted in its dealings to bills of exchange, was not liable to the constitutional objection. The privilege of issuing its own notes, of dealing in exchanges, and of receiving moneys on deposit, all appeared to have immediate reference to, or connection with, the power given in the constitution over commerce between the states, over the currency, and the necessary fiscal operations of the government in the collection, safe-keeping, and disbursement of the public revenue.

After all the material points had been disposed of to the satisfaction of all present, he said he would not sanction a bank even in the form agreed on, if he supposed it would at some future session be changed into a bank of discount, and asked his cabinet if they would stand by

him, and oppose such attempt during his administration. Mr. Webster and others gave him all proper assurances on this point.

The letter to which allusion is made by Mr. Ewing, and which was presumed to have had great influence in causing the veto, was written by John M. Botts, representative of the Richmond district of Virginia, addressed to "Coffeehouse, Richmond," postmarked "Washington, 16th August," and franked by Mr. Botts. The following is a copy of the letter:

" August 16, 1841.

"DEAR SIR: The president has finally resolved to veto the bank bill. It will be sent in to-day at 12 o'clock. It is impossible to tell precisely on what ground it will be placed. He has turned and twisted, and changed his ground so often in his conversations, that it is difficult to conjecture which of the absurdities he will rest his veto upon.

"In the last conversation reported, he said his only objection was to that provision which presumed the assent of the states when no opinion was expressed, and if that was struck out, he would sign the bill. He had no objection to the location of branches by the directors, in the absence of dissent expressed, but whenever it was expressed, the power to discount promissory notes must cease, although the agency might continue, for the purchase and sale of foreign exchange. However, you will see the message.

"Our Captain Tyler is making a desperate effort to set himself up with the loco focus, but he'll be headed yet, and I regret to say, it will end badly for him.—He will be an object of execration with both parties with the one, for vetoing our bill, which was bad enough—with the other, for signing a worse one; but he is hardly entitled to sympathy. He has refused to listen to the admonition and entreaties of his best friends, and looked only to the whisperings of ambitious and designing mischief-makers who have collected around him.

"The veto will be received without a word, laid on the table, and ordered to be printed. To-night we must and will settle matters, as quietly as possible, but they must be settled.

"Yours, &c., JNO. M. BOTTS.

"You'll get a bank bill, I think, but one that will serve only to fasten him, and to which no stock will be subscribed; and when he finds out that he is not wiser in banking than all the rest of the world, we may get a better. The excitement here is tremendous, but it will be smothered for the present."

Whether the course of Mr. Webster in remaining in the cabinet, or that of the resigning members, evinced the greater wisdom, is a question

upon which there was a difference of opinion. Considered simply as a matter of expediency, the majority of the cabinet, it is believed, committed an error. It was easy to foresee the consequences of the course they adopted—the disruption and eventual prostration of the whig party.

Mr. Webster, writing to a friend on the day of the resignations, says: “I could not partake in this movement. It is supposed to be justified, I presume, by the differences which have arisen between the president and congress, upon the means of establishing a proper fiscal agency, and restoring a sound state of the currency; and collateral matters, growing out of these differences. I regret these differences as deeply as any man; but I have not been able to see in what manner the resignation of the cabinet was likely either to remove or mitigate the evils produced by them. On the contrary, my only reliance for a remedy for those evils has been, and is, on the union, conciliation and perseverance of the whole whig party, and I by no means despair of seeing yet accomplished, by these means, all that we desire. It may render us more patient under disappointment in regard to one measure, to recollect, as is justly stated by the president in his last message, how great a number of important measures had been already successfully carried through. I hardly know when such a mass of business has been despatched in a single session of congress.

“The annual winter session, is now near at hand; the same congress is again soon to assemble, and feeling as deeply as I ever did, the indispensable necessity of some suitable provision for the keeping of the public money, for aid to the operations of the treasury, and to the high public interests of currency and exchange, I am not in haste to believe that the party, which has now the predominance, will not, in all these respects, yet fulfill the expectations of the country. If it shall not, then our condition is forlorn indeed. But for one, I will not give up the hope.”

The vacancies in the cabinet were filled by the appointment of Walter Forward, of Pennsylvania, secretary of the treasury; John M'Lean, of Ohio, secretary of war; Abel P. Upshur, secretary of the navy; Charles A. Wickliffe, of Kentucky, postmaster-general; Hugh S. Legaré, of South Carolina, attorney-general. Judge M'Lean, choosing to remain in the supreme court, declined the office of secretary of war; and John C. Spencer, of New York, was in October appointed to that office.

On the 11th of September, a meeting of whig members of congress was held at Washington. Hon. Nathan F. Dixon, of Rhode Island, on the part of the senate, and Hon. Jeremiah Morrow, of Ohio, on the part of the house, were called to the chair; and K. W. Rayner, of North Carolina, Christopher Morgan, of New York, and R. W. Thompson, of In-

diana, were appointed secretaries. A committee of three on the part of the senate, and five on the part of the house, was appointed to prepare an address to the people of the United States, to be presented at an adjourned meeting on Monday the 13th. The senators appointed were Messrs. Berrien, of Georgia, Tallmadge of New York, and Smith, of Indiana; the representatives, Messrs. Everett, of Vermont, Mason, of Ohio, Kennedy, of Maryland, John C. Clark, of New York, and Rayner, of North Carolina.

At the meeting on the 13th, Mr. Kennedy reported an address, which was unanimously adopted; and 20,000 copies of the same were ordered printed. The address adverted to the reforms promised by the whigs; in restraining the executive power and patronage; in the wholesome regulation of the currency; and in the establishment of an economical administration of the finances. It reviewed what they had done, and the position into which the party had been thrown by the president. The duties which remained for them to do, were, First, To effect a reduction of the executive power, by a farther limitation of the veto; by restricting the presidential office to a single term; by separating the purse from the sword, placing the appointment of the secretary of the treasury in congress; and by restricting the power of dismissal from office. Second, The establishment of a fiscal agent competent to collect, keep, and disburse the public moneys, to restore the currency, and to equalize exchanges. Third, The introduction of economy in the administration, and the discontinuance of all sinecures and useless offices.

To effect these objects, the address enjoined it upon the party to choose no members of congress who would not aid in their accomplishment; and to inscribe upon their flag, "The will of the nation uncontrolled by the will of ONE MAN: one presidential term, a frugal government, and no sub-treasury, open or covert, in substance or in fact: no government bank, but an institution capable of guarding the people's treasure, and administering to the people's wants."

The course pursued by Mr. Tyler was almost universally disapproved by the whig party. There were many, however, who deeply regretted the course taken by congress, as in their opinion unwise and inexpedient. Although not doubting the utility of a bank, they believed public sentiment had been too recently expressed against the late bank to render the reestablishment of a new one a popular measure. The attempt was considered as at least premature. They believed also that forbearance toward the president, even under abuse, was the proper course; and that a quarrel might and ought to have been by all means avoided; that, by the exercise of a more conciliatory spirit, and suitable efforts, the coöperation of the president might have been secured in favor of the leading measures proposed by the whig congress.

As the chief object of the extra session had been to consider the subjects of the finances and the currency, congress adjourned immediately after the bank question was determined. Several laws, however, of some importance had been previously passed; one of which was a general bankrupt law, for which it was supposed a necessity had been created by the numerous failures that had been produced by the recent revulsion in the business of the country.

An act was also passed to distribute among the states the proceeds of the sales of the public lands—a measure which had for so many years been attempted without success. The distribution, however, was subject to the condition, that the duties established by the compromise tariff of 1833, were not to be raised. If at any time congress should increase those duties, distribution was to be suspended until the cause of the suspension should cease. The distribution was to be made semi-annually, after the 1st of January, 1842.

An act was also passed, authorizing a loan of twelve millions of dollars

CHAPTER LXII.

PETITION FOR A DISSOLUTION OF THE UNION.—ATTEMPT TO CENSURE MR. ADAMS.—CENSURE OF MR. GIDDINGS.

ON the 21st of January, 1842, Mr. Adams presented a petition purporting to be from a number of respectable citizens of Georgia, complaining, as a grievance to them, that he had been appointed chairman of the committee on foreign relations, and calling upon the house to remedy the grievance. Claiming the right to defend himself against these petitioners, he moved the reference of the petition to the committee on foreign affairs, with instructions to choose a chairman if they should think proper.

Mr. Habersham, of Georgia, said he had seen the paper, and had told the gentleman from Massachusetts, that he believed the petition to be a hoax. The subject was laid on the table.

Mr. Adams, the next day, again claimed, as a matter of privilege, the right of defending himself from the charges made in the petition. The speaker being of opinion that the motion to lay on the table had carried with it every thing connected with the petition, a motion was made and

adopted to reconsider the vote on that motion. Mr. A., in his remarks, said the whole slave-trading representation of the house was against him, with one exception. If it had been secret before, it was now disclosed by a gentleman, late a senator from Alabama, in a letter to his constituents, [a portion of which Mr. A. here read.] The executive journal of the extra session showed, that appointments of abolitionists had been confirmed by votes of southern whigs, while northern democrats had voted against them.

Mr. Smith, of Virginia, rose to a point of order. The house had decided that the gentleman from Massachusetts should have the privilege of defending himself against the charge of monomania, and he asked if he was doing it. [Cries of "Yes! yes!" and also of "No, he is establishing the fact."]

Mr. Adams read farther from the letter, which stated that a coalition had been formed between southern whig leaders and the abolitionists, as well as the federalists of the north; and that this extraordinary alliance was not less indispensable for the prosperity of the union, than for the safety of the south. This letter contained precisely the same charge in substance against those whom it called the abolitionists of the north, as this petition charged against him. He had other evidence of the same spirit, in a letter from a place called Accomac, (Mr. Wise's residence.) [He then read portions of the letter relative to complaints which had been made against the "corporal's guard," the friends *par excellence* of the president, for not supporting any of the whig measures proposed at the extra session; in which letter the question was asked, what measures were meant—whether it was the abolition movement to keep the house of representatives disorganized until the 21st rule (prohibiting the reception of anti-slavery petitions) was suspended or abolished; or whether it related to the *constitution of committees*; so that, if the question of the black republic of Hayti was referred, it went to a majority of non-slaveholders.] What committee was that? asked Mr. Adams. It was this identical committee; and the speaker was charged with a violation of his duty in its appointment. The feelings of the writer were the same as those expressed in this memorial. It was not an individual or personal feeling, but it was slaveholding, slavetrading, slavebreeding; and the complaint was that the majority of the committee were not slaveholders.

Mr. Adams had not finished reading from the letter, when the question of order was raised, the speech arrested, and the house adjourned.

On the 24th of January, 1842, Mr. Adams presented a petition, signed by forty-six citizens of Haverhill, Massachusetts, for the adoption of measures peaceably to dissolve the union, assigning as one of the reasons, the inequality of benefits conferred upon the different sections

one section being annually drained to sustain the views and course of another without adequate return. He moved its reference to a select committee, with instructions to report an answer, showing the reasons why the prayer should not be granted.

Sundry questions and motions from southern members followed in rapid succession. Was it in order to move to burn the petition? asked one. A motion was made by another to lay on the table and *print*, that the country might understand its character. Was it in order, asked Mr. Wise, to move to censure any member presenting such a petition? By another the question of reception was raised—such a petition should not be allowed to come within the walls of the house. Another thought it ought not to be thus lightly passed over. Mr. Gilmer, of Virginia, submitted as a question of privilege, the following: "*Resolved*, That, in presenting to the consideration of this house a petition for the dissolution of the union, the member from Massachusetts has justly incurred the censure of this house." The resolution was objected to as out of order. The speaker decided that, being a question of privilege, it was in order.

Mr. Adams said he hoped the resolution would be received and debated, desiring the privilege of again addressing the house in his own defense, especially as the gentleman from Virginia (Mr. Gilmer) had thought proper to play second fiddle to his colleague from Accomac, (Mr. Wise.) Mr. Gilmer said he played second fiddle to no man. He was no fiddler, (cries of "order, order,") but was endeavoring to prevent the music of him who,

"In the space of one revolving moon,
Was statesman, poet, fiddler, and buffoon."

The next day, a motion to lay Mr. Gilmer's resolution on the table was negatived, 94 to 112, Mr. Adams himself voting in the negative.

Mr. Marshall, of Kentucky, then offered as a substitute for Mr. Gilmer's resolution, a preamble and two resolutions, declaring a proposition to the representatives of the people to dissolve the constitution which they were sworn to support, to be "a high breach of privilege, a contempt offered to the house, a direct proposition to each member to commit perjury, and involving necessarily in its consequences the destruction of our country, and the crime of high treason;" that Mr. Adams, in presenting the petition, had "offered the deepest indignity to the house, and insult to the people," and would, if "unrebuked and unpunished, have disgraced his country in the eyes of the world." It was farther resolved, that this insult, the first of the kind ever offered, deserved expulsion; but, as an act of grace and mercy, they would only inflict upon him "their severest censure, for the maintenance of their

own purity, and dignity; and for the rest, they turn him over to his own conscience and the indignation of all true American citizens."

A debate then ensued which continued, with little intermission, until the 7th of February. The nature of the subject of the resolutions, the serious charges which they contained, and the individual accused, as well as certain incidental topics which it embraced, imparted to this debate a surpassing interest throughout the country. For several days Mr. Marshall, Mr. Wise, and Mr. Adams, were the chief participators. Mr. Wise undertook to show, in the course of his speeches, that there was a combination of pretended philanthropists of Great Britain and the abolitionists of this country to overthrow slavery in the southern states; and he charged Mr. Adams with being an ally of British emissaries in the furtherance of this object. Mr. Wise in support of his opinion as to the existence of an "alien English influence" in this country, coöperating with that of American abolitionists, read from letters and papers printed in both countries. A part of the general plan was to bring the elective franchise to bear upon the question; another was to memorialize congress.

In relation to the plan of memorializing, which had been "thoroughly digested," he said: "The directions were very minute, going down even to the folding and indorsing of the forms of memorials, and directing them to be forwarded to the Hon. Seth M. Gates, the agent of the abolitionists on the floor of congress. Here, Mr. W. said, was a deliberately formed plan of operation, with a member of the house for their organ and agent, and all the forms of petition put into the people's mouths, ready cooked and concocted beforehand. Many of them were, word for word, such petitions as had been already presented to that house; one, indeed, the petition for the dissolution of the union, did not appear among them, but every movement was planned which led to that result. The entire train was carefully and skillfully laid; the mine was already sunk beneath the walls of the constitution: and the incendiary stood ready with his torch prepared to blow the union into ten thousand fragments." Mr. W. referred to Washington's farewell address, which warned us of the ruinous consequences of arraying the north against the south—the east against the west.

Mr. Wise said he should at the proper time ask to be excused from voting for the resolution of censure. Personally, he had not censured him; politically he had. He said: "The gentleman was honored, time honored, hoary—but he could not add, with wisdom. The gentleman had immense power, the power of station, the power of fame, the power of age, the power of eloquence, the power of the pen; and any man was greatly mistaken who should say or think, that the gentleman was MAD.

The gentleman might say with an apostle, 'I am not mad most noble Festus,' though he could not add, 'but speak forth the words of truth and soberness.' All who knew him would say he was not mad. In a political, not in a personal sense, Mr. W. would say, and with entire sincerity of heart, the gentleman was far more wicked than weak. A mischief might be done by him. Mr. W. believed he was disposed to do it, and would wield his immense intellectual, moral, and political power to effect it. That mischief was the dissolution of this union, and the agent of that dissolution, should it ever be effected, Mr. W. did in his heart believe, would be the gentleman from Massachusetts. Governed by his reputation, by his habits, by all considerations arising from the belief of personal wrongs, his passions were roused, and his resentment and his vengeance would be wreaked on the objects of his hatred, if he could reach them. If this state of mind were monomania, then it was hereditary; no matter what might be its cause, it was dangerous—deadly. The gentleman was astute in design, obstinate and zealous in power, and terrible in action, and an instrument well fitted to dissolve the union.

Mr. Adams questioned the right of the house to entertain the resolutions of Mr. Marshall, because they charged him with crimes of which the house had no jurisdiction; and because, if it entertained the jurisdiction, it deprived him of rights secured to him by the constitution. All that the house could try him for, was a contempt of the house, under the resolution of Mr. Gilmer. "But," said Mr. A., "there was a trial in this house, about four or five years ago, of a member of the house for crimes. [Mr. Wise had had some connection with the duel between Messrs. Graves and Cilley, in which the latter was killed.] There came into this house then a man with his hands and face dripping with the blood of murder, the blotches of which were yet hanging upon him; and the question was put, upon the proposition of those very democrats to whom he has this day rendered the tribute and homage of his thanks, that he should be tried by this house for that crime, the crime of murder. * * * I opposed the trial of that crime by this house. * * * I was willing that the parties to that atrocious crime should be sent to their natural judges, to have an impartial trial; . . . and it is very probable that I saved that blood-stained man from the censure of the house at that time."

Mr. Wise, interrupting Mr. Adams, inquired of the speaker whether his character or conduct was involved in the issue before the house, and whether it was in order to charge him with the crime of murder; a charge made by a man who had at the time defended him from the charge on that floor; and who had, as he was informed by one of Mr

A's. own colleagues, defended him before thousands of people in Massachusetts.

Mr. Adams said he never had defended the man on the merits of the case; and never did believe but what he was the guilty man, and that the man who pulled the trigger was but an instrument in his hands. He repeated, that the house had no power to try and punish him for the crimes charged against him. The constitution provides, that "in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial by an impartial jury." The house was not an impartial tribunal. "I wish," said Mr. A., "to speak of the slaveholders of this house and of the union with respect. There are three classes of persons included in the slave interest as representatives here. As to the slaveholder, I have nothing to say against him, except that if I am to be tried by him, I shall not have an impartial trial. I challenge him for partiality—for pre-adjudication upon this question, as a question of contempt, which I repeat, is the only charge on which I can be made to answer here. I say he is not impartial. Every slaveholder has not only an interest, but the most sordid of all interests—a personal, pecuniary interest—which will govern him. I come from a portion of the country where slavery is known only by name; I come from a soil that bears not the foot of a slave upon it. I represent here the descendants of Bedford, and Winslow, and Carver, and Alden—the first who alighted on the rock of Plymouth. And am I, the representative of the descendants of these men—of the *free* people of the state of Massachusetts, that bears not a slave upon it—am I to come here and be tried for high treason because I presented a petition—a *petition*—to this house, and because the fancy or imagination of the gentleman from Kentucky supposes that there was anti-slavery or the abolition of slavery in it? The gentleman charges me with subornation of perjury and of high treason, and he calls upon this house, as a *matter of mercy and grace*, not to expel me for these crimes, but to inflict upon me the severest censure they can; and to decide upon that, there are one hundred members of this house who are slaveholders. Is any one of them impartial? No. I trust they will not consider themselves as impartial men; I trust that many of them will have those qualms of conscience which the gentleman from Accomac (Mr. Wise) assigns as his reason for being excused, and that they will not vote upon a question on which their personal, pecuniary, and most sordid interests are at stake."

Mr. Underwood, of Kentucky, also maintained that the house was not the proper tribunal before which Mr. A., if guilty of the crimes alleged, ought to be arraigned. He defended the right of petition. He believed where there was no power to grant the prayer of the petitioners, there

was no right to petition. But he had voted against the 21st rule, because by that petitioners were excluded who had a right to be heard. As a slaveholder, he had differed from his brethren in reference to the whole gag proceeding. In reference to all gag rules, he said, away with them. Let those who wish discuss this topic as much as they pleased. He attempted to show that the proceeding against Mr. Adams was to punish him for an imputed motive. What had he been guilty of? Had he sanctioned the petition? How could they judge his motive? Nor had he violated the rules of order. He had simply presented a petition; and they were attempting to punish him for the manner in which he had considered it his duty to represent a portion of the people of Massachusetts. He told gentlemen to beware how they put it into the power of the gentleman from Massachusetts to go home and tell his constituents that he was a martyr to the right of petition.

Mr. Botts also defended Mr. Adams. He did not approve all that he had said on that floor. But he would not wound the feelings of that venerable gentleman. He believed he had expressed many sentiments in the irritability of the weight of years that hung on him, which his own calm reflection would condemn. There was enough passing under his immediate observation to provoke the gentleman, and if he might use the expression, to "bedevil" him.* But what was the offense with which he stood charged? He had presented a petition; and he had asked permission to present a remonstrance, and appeal to the petitioners against the folly of their course. This was not the first time the house had heard of the dissolution of the union. A gentleman from South Carolina, now a member of this body, (Mr. Rhett,) had three or four years ago actually drawn up a resolution, asking congress to appoint a committee, to consist of one member from each state, to devise measures for the dissolution of the union. [This called out Mr. Rhett in explanation. It was not his wish to dissolve the union; he intended it as an amendment to a motion to refer with instructions to report a bill for abolishing slavery in the District of Columbia. He expected it to be laid on the table with the original motion. His design was to place before congress and the people what he believed to be the true issue upon this great and vital question. The resolution proposed a committee of two from each state.] It was, said Mr. Botts, not only the doctrine of the gentleman, but of the majority of his state. They held that a state had a right to secede from the union. If one state had such right, others had.

Mr. B. considered this affair a great farce—a storm in a tea-pot. Talk of censuring the gentleman from Massachusetts! Look at the other end of this avenue. A man at the head of the right arm of the

defense of this nation—the secretary of the navy, (Mr. Upsbur,) the last time he had had conversation with him, was an open, avowed advocate of the immediate dissolution of the union. [Mr. Wise: I deny it.] Mr. B. repeated the declaration, and said, when the secretary denied it, he would undertake to prove his statement. If there were to be any charges for high treason, the secretary of the navy should be put on his trial.

Mr. Arnold, of Tennessee, spoke at length in opposition to the resolutions, and in defense of Mr. Adams. He could have no possible motive for desiring the dissolution of the union. He had presented this petition, because he wanted, as the last and most glorious act of a long life, to send forth, in these times of general confusion and political degeneracy, a paper with healing in its wings—a report adverse to the prayer of the petition, and which should state, in a luminous and convincing manner, all the strong arguments in favor of union. He would like to see such a paper from the able pen of that venerable patriot. It would dissipate all doubts as to the purity and patriotism of its author. “But,” continued Mr. Arnold, “for the crime of presenting a petition with such an object in view, the house was to put on record against him a charge of aiding in high treason, and in suborning the members of that house to the commission of perjury; and he was to consider it as a great favor that the house did not expel him, but contented itself with giving him a reprimand. Mr. A. should like to witness the spectacle. He should like to see that gentleman standing at the bar, with his palsied hand, his bare head, and whitened locks, to be rebuked by the speaker, comparatively a mere boy, after having been visited with the vituperation and vindictive persecution of another, as much a boy in comparison. What a spectacle! Mr. A. turned from the thought with loathing and disgust, and so would the nation. So far from helping the cause of the south, it would kindle up against her a blaze high as the very heavens. He was against it—utterly and totally against it—from principle and from policy too.”

Mr. Saltonstall, of Massachusetts, gave a history of the rise and progress of the idea of dissolving the union, beginning with the various threats from the southern portion of the union—from those opposed to a tariff, from the nullification party, &c. This petition was from his own native town, and he felt much surprised and distressed at the circumstance. He then went into a vigorous and eloquent defense of his venerable colleague from the numerous and violent charges made against him in the long speech of Mr. Wise.

Several of the last days of the debate were nominally occupied by Mr. Adams in his defense. It would seem, however, from the proceedings, that quite as much time was taken up by others as himself. There

were frequent interruptions, explanations, motions, and incidental questions, which served to protract the defense.

Mr. Adams called attention to the combination formed against him. He spoke first of the "coalition" between Mr. Gilmer and Mr. Marshall, both of whom had introduced resolutions of accusation against him; so that if acquitted on the charge of the latter, he would have to defend himself against those of the former. This coalition was pointed against one single individual, a member of this house, charged with half a dozen capital crimes; and this house was called upon to censure him because he had presented a petition. In what part of the constitution was this declared a crime? He would like the gentleman from Kentucky to look into his deep researches of law, to point out the law which made it a crime to present a petition, lead to what it might. In the first place, the gentleman had *made* the law; he had then gone on and accused an associate member of violating it—to sit as a judge upon him, and then turn executioner. And to crown all, he had declared that it was a great mercy and favor that the punishment was not much more severe! The report of the speech proceeds as follows:

"He had spoken of the extraordinary position of the gentleman from Kentucky combined with the chief of the Tyler party, heretofore called the corporal's guard, but who, Mr. A. should think, was the field-marshal of the armies of the present administration. When he saw that combination in the first instance, he could not help asking, What is this? Misery, it was said, makes strange bed-fellows. And he thought to himself, was the gentleman from Kentucky in such misery that he was compelled to seek such companions? (Laughter.) Then came the Georgia whigs, who, after endeavoring to produce an impression unfavorable to him for having presented a petition, on the ground that it was a hoax, had all gone on voting against him, for the purpose of bringing censure upon him.

"The third part of this combination was a large portion of the Virginia whigs, who were neither Tylerites nor Kentuckians. And then, the great democracy of the free states—the auxiliaries of the "peculiar institution." (Laughter.) This was a combination of parties he was called to meet in order to maintain his right as a member of this house, to present petitions complaining of grievances. A very strange composition! * * *

"He, Mr. A., hoped his southern confederates would lay it to their hearts, that they should have no more such *resolutions* as were prepared by the gentleman from South Carolina, (Mr. Rhett,) and kept in his drawer to be presented to this house. He should have hoped that, out of mere sympathy, the gentleman, if he had thought him, (Mr. A.,)

guilty of the crime of perjury or high treason, as he would be, necessarily included in it, would have given him, (Mr. A.,) the benefit of his vote on this occasion. (A laugh.) But no, he was a part of the party. He now voted that he (Mr. A.) was guilty of subornation of perjury or high treason for presenting a petition exactly agreeing with his views! (A laugh.) That gentleman and the rest of the representatives from South Carolina—that land of nullification, against whom Andrew Jackson himself was reduced to the necessity of issuing a proclamation threatening them with the second section if they continued in it—here was the whole representation from that state, ready to indorse the charges of the gentleman from Kentucky, of high treason, because forty-five of his fellow-citizens thought on the particular points of the dissolution of the union just as they did!"

Mr. Adams demanded that, before the house came to the conclusion on the motives assumed in this charge, they should send him out to be tried before a tribunal of the country. Then he should have the benefit secured by the constitution. And he wanted, in that case, to have two or three calls made on the departments for information necessary for his defense; and for this purpose he sent several resolutions to the chair. The first of these resolutions requested the president to communicate copies of the correspondence relating to an act of South Carolina directing the imprisonment of colored persons arriving from abroad in the ports of that state; also copies of the act or acts, and of any official opinions given by judge Johnson of the unconstitutionality of the said acts. [The act here referred to, subjects *any* colored person landing from a vessel in any port of South Carolina, to be arrested and imprisoned, and in case of inability to pay the costs incurred by such imprisonment, to be sold for the same as a slave. It will be recollected that the honorable Samuel Hoar, of Massachusetts, was sent by the authorities of that state to South Carolina to take measures to test the constitutionality of that law in the supreme court of the United States; and that while there, he was threatened with violence, and was compelled to flee from the state for his personal safety.] One of the other resolutions called for a copy of any letter or letters from the president to a certain member of the house, relating to the rule of the house excluding from reception anti-slavery petitions, or to any agency of the said member in introducing the rule. The first two resolutions, after considerable farther debate, were adopted. Upon the two relating to the "21st rule," the vote was not then taken.

Mr. A. maintained that he was guilty of no offense; he had, on presenting the petition, declared that it was the last thing he would ever vote for. He also repeated what he had said on former occasions, that he had given notice to the house, the petitioners, and the whole country

and his constituents among them, that if they sent to him their petitions for abolishing slavery in the District of Columbia, because they expected him to support them, they were mistaken.

After Mr. Adams had occupied two or three days more in his defense, a disposition was manifested to get rid of the subject, by laying it on the table. He was willing to acquiesce in such a proposition, provided it should never be taken up again. The subject was thereupon laid on the table, by a vote of 106 to 93; and the reception of the petition was refused, 40 to 106.

On the 28th of February, 1842, Mr. Giddings, of Ohio, presented a petition from upwards of eighty citizens of Austinburg, in his district, of both political parties, it was said, praying for an amicable division of the union, separating the free and slave states. Mr. G. moved a reference of the petition to a select committee, with instructions to report against the prayer of the petitioners, and to assign reasons why their prayer should not be granted. Mr. Triplett, of Kentucky, considering the petition disrespectful both to the house and the man who presented it, moved that it be not received. The question on receiving the petition was decided in the negative: ayes 24; noes, 116.

The reasons for the prayer of the petitioners were assigned by them in a letter to Mr. G. from one of them, saying: "If our petitions are to be treated with open contempt and malignant insult, and we ourselves held up to the world as incendiaries and fanatics; if the federal government is to go on, year after year, increasing its efforts to sustain the system of slavery, by the aid of the money, the power and the influence of the nation at large: then we ask, and ask sincerely too, for a division."

Mr. Kennedy, of Maryland, offered a resolution, declaring that all such petitions should thereafter be deemed offensive, and the member presenting them liable to censure. The resolution, however, was not received. For quite a different act, however, Mr. Giddings, at a later period of the session, incurred a formal censure of the house.

In October, 1841, the brig *Creole* left Richmond for New Orleans, with a cargo consisting principally of tobacco and slaves, about 135 in number. On the 7th of November, the slaves rose upon the crew, killed a man on board named Hewell, part owner of the negroes, and severely wounded the captain and two of the crew. Having obtained command of the vessel they directed her to be taken into the port of Nassau, in the British island of New Providence, where she arrived on the 9th. An investigation was made by British magistrates, and an examination by the American consul. Nineteen of the negroes were imprisoned by the local authorities as having been concerned in the mutiny and murder. Their surrender to the consul, to be sent to the United States for trial

was refused, until the advice of the government of England could be had. A part of the remaining slaves were liberated and suffered to go beyond the control of the master of the vessel and the consul.

Mr. Webster, secretary of state, in a letter dated January 29th, 1842, instructed Mr. Everett, our minister at London, to present the case to the British government, "with a distinct declaration, that, if the facts turn out as stated, this government think it a clear case for indemnification;" and, in support of such a claim, he refers to an opinion said to have been expressed by his majesty's government in other and similar cases, that the rule by which these claims should be decided, was, that the claimants must be entitled to compensation who were lawfully in possession of their slaves within the British territory, and who were disturbed in their legal possession of those slaves, by the functionaries of the British government. This admission, Mr. Webster thought to be broad enough to cover the case of the Creole. "But," he says, "it does not extend to what we consider the true doctrine according to the laws and usages of nations; and therefore can not be acquiesced in as the exactly correct general rule. It appears to this government, that, not only is no unfriendly interference by the local authorities to be allowed, but that aid and succor should be extended in these as in other cases which may arise, affecting the interests of citizens of friendly states." None except the mutineers having come voluntarily within British territory, the laws of England affecting and regulating the conditions of persons could properly act upon them. It was not complained that English law should decide the condition of persons incorporated with British population; but in the case of the Creole, the colored persons were still on board an American vessel forcibly put out of the course of her voyage by mutiny; the master desiring to resume it, and calling upon the consul of his government and upon the local authorities to enable him to do so. The vessel must be considered as still on her voyage, and entitled to the succor due in other cases of distress. This view, he said, was evident from the awkward position of the British government in regard to the mutineers still imprisoned. What was to be done with them? How were they to be punished? That government probably would not undertake to try or punish them; and of what use would it be to send them to the United States, separated from their ship, and at a period so late as that, if before proceedings could be instituted against them, the witnesses might be scattered over half the globe? And thus one of the highest offenses known to human laws would be likely to go unpunished.

Lord Palmerston had said on a former occasion, "that slavery being now abolished throughout the British empire, there can be no well-founded claim for compensation in respect of slaves who, under any cir

cumstances, may come into the British colonies, any more than there would be with respect to slaves who might be brought into the kingdom." Our government, Mr. W. said, saw no ground for any distinction founded on an alteration of British law in the colonies. The question did not depend on the state of British law. "It is not that in such cases the active agency of British law is invoked and refused; it is, that unfriendly interference is deprecated, and those good offices and friendly assistances expected which a government usually affords to citizens of a friendly power when instances occur of disaster and distress. All that the United States require, in these cases, they would expect in the ports of England, as well as in those of her colonies. Surely, the influence of local law cannot affect the relations of nations in any such matter as this. Suppose an American vessel, with slaves lawfully on board, were to be captured by a British cruiser, as belonging to some belligerent, while the United States were at peace; suppose such prize carried into England, and the neutrality of the vessel fully made out in the proceedings in admiralty, and a restoration consequently decreed—in such case, must not the slaves be restored exactly in the condition in which they were when the capture was made? Would any one contend that the fact of their having been carried into England by force set them free?"

A different view of the question was taken by Great Britain. Lord Brougham stated in the house of lords, others concurring and none dissenting, that "the only treaty by which England or America could claim any refugees, either from the other, related exclusively to murderers, forgers, and fraudulent bankrupts; and even that treaty had expired. There was no international law by which they could claim, or we give up, the parties who had taken possession of the Creole; and those persons must stand or fall by British laws only." All agreed that there was no authority to surrender the fugitives, nor hold in custody the mutineers; and it was stated that orders had been sent for their liberation.

On the 21st of March, 1842, Mr. Giddings submitted a series of resolutions on a subject which, he said, had excited some interest in the other end of the capitol, and in the nation, and which he wished to lay before the country. These resolutions declared jurisdiction over slavery to belong exclusively to the states; that by the 8th section of the 1st article of the constitution, the states had surrendered to the federal government jurisdiction over commerce and navigation upon the high seas; that slavery, being an abridgment of the natural rights of man, can exist only by force of *positive municipal law*, and is necessarily confined to the territorial jurisdiction of the power creating it; that when the brig Creole left the territorial jurisdiction of Virginia, the slave laws of that

state ceased to have jurisdiction over the persons on board the said brig, who became amenable only to the laws of the United States, and who, in resuming their natural rights of personal liberty, violated no law of the United States; and that all attempts to reënslave the said persons, or to exert our national influence in favor of the coastwise slave trade, or to place the nation in an attitude of maintaining a "commerce in human beings," were subversive of the rights and injurious to the feelings and the interests of the free states, unauthorized by the constitution, and incompatible with our national honor.

Mr. Ward, of New York, moved the previous question on these resolutions. Mr. Everett, of Vermont, with the view, probably, to their discussion, moved to lay them on the table. This motion was rejected: ayes, 52; noes, 125. The previous question having been seconded, and the main question ordered, Mr. Giddings, in the midst of the confusion and excitement which ensued, withdrew his resolutions.

Mr. Botts then offered a resolution, upon the adoption of which he intended to move the previous question. The preamble to the resolution deprecated the resolutions of Mr. Giddings, "touching a subject of negotiation between the United States and Great Britain of a most delicate nature," and as possibly "involving those nations and the whole civilized world in war;" declared it to be the duty of every good citizen, and especially of every representative of the people, to discountenance all efforts to create excitement and division among the people under such circumstances; and denounced them as justifying mutiny and murder in terms shocking to all sense of law, order and humanity: therefore "*Resolved*, That this house hold the conduct of the said member as altogether unwarranted and unwarrantable, and deserving the severe condemnation of the people of this country, and of this body in particular."

An excited and confused debate ensued, which continued during the remainder of that day and the next, and in which sundry questions of order, appeals, and of privilege were discussed. Several members having expressed a desire that Mr. Giddings should be heard in his defense, he rose and said: "I stand before the house in a peculiar situation." Mr. Cooper, of Georgia, objected to his proceeding, but at the request of his colleagues withdrew his objection. But Mr. G. did not resume the floor. He, however, addressed to the reporter of the National Intelligencer a note stating, that when he was called to order the last time, he had written and desired to state to the house as follows:

"MR. SPEAKER: I stand before the house in a peculiar situation. It is proposed to pass a vote of censure upon me, substantially for the reason that I differ in opinion from a majority of the members. The vote is

about to be taken without giving me time to be heard. It would be idle for me to say that I am ignorant of the disposition of a majority to pass the resolution. I have been violently assailed in a personal manner, but have had no opportunity of being heard in reply. I do not now stand here to ask for any favor or to crave any mercy at the hands of the members. But in the name of an insulted constituency—in behalf of one of the sovereign states of this union—in behalf of the people of these states and the federal constitution—I *demand* a hearing, agreeably to the rights guarantied to me, and in the ordinary mode of proceeding. I accept of no other privilege; I will receive no other courtesy."

The resolution of Mr. Botts was adopted by a vote of 125 to 69; the preamble, 129 to 66.

Mr. Giddings then addressed to the speaker a letter of resignation, which was the next day (23d) laid before the house. He immediately departed for his residence in Ohio—was reelected on the 26th of April, at a special election called by the governor of the state, by a majority of about 3,500 votes over his opponent—and returned to his seat in the house on the 5th of May.

CHAPTER LXIII.

THE TARIFF OF 1842.—PRESIDENTIAL VETOES.—BRITISH COLONIAL TRADE.
—NORTH-EASTERN BOUNDARY QUESTION SETTLED.

THE gradual reduction of duties provided by the compromise tariff of March, 1833, had nearly brought them to the lowest rate established by that act. Sundry manufactures were languishing, from the want, as was supposed, of adequate protection; and a material augmentation of the revenue had become necessary to supply the wants of the government. Hence, whatever difference of opinion may have existed in regard to the necessity of additional protection to manufactures, some measure, it was universally conceded, was necessary to increase the public revenue; and, as it was contrary to the general policy of the government to resort to direct taxation, congress was compelled to adopt the alternative of a revision of the tariff.

Owing to delays in obtaining the necessary information upon which to base their report, the committee on manufactures of the house of representatives did not make their report until the 31st of March, 1842.

This report stated, that the estimated expenses of the government were, for the current year, about \$26,000,000; which would leave a deficit of about \$14,000,000. Such were the prospective demands upon the treasury—increased by the enormous expenses of the Florida war which was not yet terminated—that some permanent provision for an increased revenue was indispensable. The committee presumed the effect of the depressed price of cotton and all our principal articles of produce, the derangement of the currency, state and individual indebtedness abroad, and the general stagnation of business, would be to lessen importations. The 20 per cent. duties to be collected after the 30th of June next, under the tariff of 1833, would not yield a revenue exceeding about \$15,000,000.

The committee, being of the opinion that specific duties afforded the best security against frauds, which opinion was confirmed by that of intelligent merchants and manufacturers, they had been to a great extent retained. The committee state the provisions of their bill as follows:

1. A general *ad valorem* duty of thirty per cent., with few exceptions, where the duty is on that principle.

2. A discrimination is made, for the security of certain interests requiring it, by specific duties, in some instances below, in others above, the rate of the general *ad valorem* duty.

3. As a general principle, the duty on the articles subject to discrimination, is made at the rate at which it was in 1840, after the deduction of four-tenths of the excess over twenty per cent. under the act of 1833. Many departments of industry were successful under this reduction, which could not bear the great reduction of January last, and which would be overwhelmed under the full operation of that act.

The views of the committee in relation to the encouragement of domestic industry by duties on imports, are stated at great length. A few paragraphs are given.

“All the great interests of the country are now in an extremely depressed condition; every branch of industry is paralyzed. How is it that, in a time of profound peace, with a country abounding in natural resources, . . . and blessed by Heaven beyond any other people who ever existed, the voice of complaint should come up from every part of the land?

“There are several causes for the present depression of property and general stagnation of business, one of which will be admitted to be the large amount of our importations over the amount of exports. This depresses our home industry, and draws from the country annually large balances in specie, crippling our banks, and depriving them of the power to grant the necessary facilities. The same causes produced the exhaus-

tion of our resources and the embarrassment which were the principal cause of the adoption of the constitution. As stated in the very able petition from Windsor county, Vermont, 'from 1783 to 1789, the trade of the thirteen old states was perfectly free to the whole world. The result was, that Great Britain filled every section of our country with her manufactures of wool, cotton, linen, leather, iron, glass, and all other articles used here, and in four years she swept from the country every dollar and every piece of gold,' &c.

"In the last term of Gen. Jackson's administration, the imports exceeded the exports each year, making an excess of \$129,681,397.

"The excess of imports during the three first years of Mr. Van Buren's administration, was nearly seventy millions. In 1840, for the first time for ten years, there was an excess of exports. In 1841, the imports exceeded the exports about three millions.

"A tariff of duties which, while it will supply the necessary revenue, will check excessive importations, and prevent the flow of specie abroad for the payment of large balances, will do much to restore the prosperity of the nation. * * *

"And why should we not rely more upon ourselves and on our policy? Is there anything in the policy of other nations to induce us to lead the way in free trade? Free trade! Where shall we go to find an example for it? All the great nations of Europe are protecting their own industry, and encouraging their own manufactures, to an extent before unknown. France, Prussia, the German States, and even Russia, are making rapid advances in manufactures, under a system of rigorous restrictions.

"Until the European nations change their policy, there can be no really free trade for the United States. Should we only adopt this policy, free trade will be only on one side, and that not ours. We shall enjoy just so much commerce with them as they in their good pleasure may allow us. Shall we look to England for our example of free trade? England imposes prohibitory duties on all articles she can raise or manufacture. This is her settled policy. Should an insufficient tariff, with her vast surpluses poured in upon us, break down our establishments, and we again import our cotton, woolen and other manufactured goods, what would she receive in return for them? With what could we pay her? She will not take from us our wheat and corn, unless her population is in a starving condition, because they will interfere with her own agricultural interests. The products of our fisheries and our forests will find no admission there, because she must encourage her own fisheries and her colonial timber trade. She will take a few thousand hogsheds of tobacco but charged with a duty and excise of ten times its

original cost, and thus yielding a twelfth part of her revenue from imports. She will not take from us any article of the growth, produce, or manufacture of this country, except our cotton, which has become essential to her cotton manufactures—that branch of her industry which is now essential to her national wealth and power—and she is straining every nerve to become independent of foreign nations for this.

“That most numerous and important class—the agriculturists—have the greatest interest in the prosperity of manufacturing and mechanical labor. A change of policy which should break these down, would deprive them of their best markets. Wherever manufacturing establishments are located, villages spring up around them; their effects are immediately seen in the increased value of land in the vicinity. Perhaps it would not be extravagant to state that the establishment of manufactures had added an amount to the agricultural wealth of the country equal to the capital employed in manufactures. Few are aware of the extent of demand for agricultural produce, for the supply of a single manufacturing establishment. An interesting statement on this subject is annexed to the testimony of Mr. Schenck.”

Annexed to the report of the committee was a statement with statistical tables, prepared by Mr. Triplett, a member from Kentucky, and designed to show the great inequality of the duties levied in the United States upon European goods, and those to which the productions of this country are subjected in Europe.

The products of American industry sell in Europe, after

deducting freight and charges, except duties, in round numbers, for	-	-	-	-	-	-	-	\$204,500,000
Of which we receive	-	-	-	-	-	-	-	91,000,000

And lose in paying duties,	-	-	-	-	-	-	-	\$113,500,000
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The products of European industry sell in the United

States, after deducting freight and other charges, except duties, for	-	-	-	-	-	-	-	\$90,000,000
Of which the Europeans receive	-	-	-	-	-	-	-	73,000,000

And lose in paying duties,	-	-	-	-	-	-	-	\$17,000,000
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Showing that we pay upwards of 100 per cent. to European nations, while they pay to us less than 20 per cent. “But,” he says, “great and unjust as this inequality is, on the total amount of exportations from the United States, it becomes still more startling in its manifest injustice when examined as to a particular export—the staple, to a great extent, of several particular states. Unmanufactured tobacco pays, in Great Britain, since the 15th May, 1840, a duty of 76 cents per pound

or upwards of 1250 per cent., valuing the pound of tobacco at 6 cents; in Austria, within a fraction of 6 cents per pound, or 100 per cent.; in Prussia, 3 1-2 cents per pound, or upwards of 50 per cent.; and France levies by her *Regie*, or indirect duty, about one dollar per pound, or 1,666 2-3 per cent."

Excluding Russia, Prussia, and Portugal, for which he had not yet completed his calculations, Mr. Triplett says:

On this amount of average annual value of tobacco shipped from the United States, for the years 1839 and 1840,	
to wit, on	\$9,225,145
There is levied by the other European nations an annual tax of	32,463,540

Showing the amount for which American tobacco sells in

Europe, exclusive of freight and other charges except duties, to be	\$41,688,685
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of which foreign governments retain upwards of three-fourths, and the tobacco planters receive less than one-fourth. In view of these facts he thinks it no wonder that the tobacco growing states had increased less in population and wealth than any other states in the union; and that other agriculturists had suffered more or less from a similar cause."

As usual, a counter report was made by the minority of the committee on manufactures, affording another instance of the opposite conclusions of able minds from the same facts. The report gives a description of the condition of the people of Great Britain, which it considers to be the result of her restrictive or protecting policy, and says, that "a system productive of such effects upon her population, ought not to be favored by a government established, as ours is, to protect the rights and happiness of all, without regard to ranks or sectional interests." But admitting the system of high protection to be beneficial to her people, it affords no evidence that the same system is suited to our circumstances.

In regard to the benefits supposed to be derived by a community from the establishment of a factory within it, the minority contend that these benefits are lost or neutralized by the system under consideration. They say: "The whole neighborhood would be benefitted, if the government did not, under the guise of protection to the labor of each, extract a heavy amount of the profits of each and of all by high taxation; not by a tax operating directly upon the manufactures or the raw material, both of which can be exported to foreign markets, and thus escape the tax, but indirectly by a tax on the food of the laborer, who at last is the sole producer. This tax is levied in the shape of high duties, which

prevents foreign grain and other provisions from coming into competition with the home product, and thus, by keeping the latter at high prices, forces the laborer to demand an equivalent in high wages, in order to enable him to live; and this increase of his wages retroacts again, to neutralize the benefit which the farmer derives from the protection. A mere revenue duty on foreign grain would not have produced these effects; and in such a case the amount of revenue would have been increased by the increase of imports from abroad, while now no revenue, comparatively, is derived from that source, in consequence of the high duty."

The minority illustrate their argument by the example of the operations of the woolen factory of Mr. Schenck of Dutchess county, New York, of whose testimony the committee had availed themselves in preparing their report. They say: "Thus, continues Mr. S., by the capital of \$140,000 of this single factory, a market is furnished for the products of that country, of \$116,000; (consisting of fleece wool, soap, teasles, and firewood, \$76,281; and \$40,000, the wages of operatives.) The labor for 170 operatives, alone, supports not less than 500 persons, and these consume, weekly, of the products of agriculture, not less than the value of \$200 per week, in beef, pork, flour, butter, eggs, milk, cheese, &c., equal to \$10,400 per annum. To sum up the whole, in his own words: 'Thus \$1,422,000 is the agricultural capital now in requisition to supply the manufacturing investment of £140,000.' This supply consists of the wool, soap, teasles and firewood, used in the factory; of winter fodder and summer pasture for the sheep, and provender for the horses; and food for 170 operatives, with their families, estimated at 500.

"Here, then, is a large expenditure, beneficial to most, if not all, of the inhabitants of the country, in a greater or less degree, in the same manner as the whole population of England is more or less benefited by their manufactures; that is, as long as the manufacturer can find a profitable market for his products, and as long as the government abstains from heavy direct taxation outweighing the benefits. Is it surprising that the people of Dutchess county, looking alone to the immediate benefits to themselves, without regard to the ultimate effects on *themselves*, or to the immediate effect upon other portions of the union, should be the advocates of high protection? But let us, pursue the statement of Mr. Schenck, not for showing its temporary benefits to the people of Dutchess county but for the purpose of showing its ultimate results upon the interests of the whole union, and also upon the people of Dutchess county themselves."

They then make the following statement.

Duties paid on imported articles consumed in the factory, olive oil, coal, and indigo, - - - - -	\$1,724
Value of manufactures produced, - - - - -	\$186,925
Duties on this sum of \$186,925, at 33 1-3 per cent., about the rate at which the foreign article would be imported, - - - - -	\$62,303
Duty at 20 per cent. on home valuation, - - - - -	\$37,385
Whole duty actually paid, as above, - - - - -	1,724
Loss to the revenue by excluding the foreign article, - - - - -	\$35,661

They then say: "Let not the laborer in the factory, or the farmer, or the grazier, who supply it, be deceived by the immediate benefits to themselves: they must also look to the immediate and ultimate effect upon the revenue from customs, and reflect, that, if home manufactures exclude the foreign, they must reduce or destroy revenue from foreign manufactures; and that the government will be forced, of necessity, to supply revenue for its ordinary wants, to heavy taxation on tea and coffee, now admitted free, and on salt and other foreign products of common use among them; and, when these fail to supply a sufficient income, then to a direct taxation on their lands, buildings, sheep, and capital and labor, as is now the case in England; for revenue must be had, and to an amount daily increasing, as the country increases, for the necessary increasing expenditures of the government. The immediate benefit, then, is lost, in the certainty of the ultimate burden, which, as in England, will reduce a large mass of our people to a taxation pressing them to starvation."

The minority then proceed to show the effects of the system upon the different portions of the country, and upon the revenue. For this purpose they select four of the principal branches of manufacture: wool, iron, leather, and cotton,—stating the value of the manufactures of each in the two divisions of the union; the one embracing the eight states of New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, and Pennsylvania, with a free population of 6,258,000; and the rest of the union containing a free population of 8,316,000, and a slave population of 2,486,000; in all 10,802,000.

The value of the manufactures of wool, iron, leather, and cotton, in the year 1840, are stated as follows:

Productions of the eight states, - - - - -	\$102,100,000
Productions of the rest of the union, - - - - -	23,030,000
Foreign products consumed in the union, - - - - -	21,672,000
Foreign products paying duty into the treasury, - - - - -	19,498,000

Consumption of the above in the eight states, -	-	48,140,000
Consumption in the rest of the union, -	-	72,210,000
Consumption of imports in eight states, -	-	8,667,800
Consumption of imports in all others, -	-	13,002,200
Consumption of imports paying duty in eight states, -		7,797,000
Consumption of the same in all others, -	-	11,698,200

"The first of these results," they proceed to say, "is that the eight states produced in 1840, \$79,020,000 of the above four classes of manufactures more than all the other eighteen states and territories, and that they consumed of that amount \$48,140,000, leaving the residue, after deducting the foreign exports, of \$4,926,000, say \$25,954,000, as the consumption of the rest of the union, of the domestic manufactures of woollens, iron, leather, and cottons, of the eight states. Now, if we assume the average duties on similar articles to have been, in 1840, 35 per cent. ad valorem, which no one can, we think, doubt, who will examine the table No. 3, annexed to the report of the majority, the duty on the \$25,954,000, if the same amount had been imported, would have amounted to \$9,083,000, while the duty actually paid into the treasury on *all* the imports of the like four classes of manufactures, calculated on the same rate of duty, paid into the treasury only \$6,823,000. Now, all the manufacturers who have been examined before the committee, seem to agree that, unless the duties on those articles are kept as high as they were in 1840, they can not live, or compete with the foreign manufacture in our own market; and in this opinion the majority of the committee seem to have concurred, by reporting a bill assessing the same amount of duties on those imports as were levied in 1840. If so, the consumers pay, in the increased price of the domestic product over the foreign, the whole duty of 35 per cent. ad valorem, (that is, \$9,083,000,) which whole amount is paid by the eighteen states and territories in the following proportions, according to representative population, at the ratio of 65,500; that is to say, dividing the whole into 128 parts: Ohio, Indiana, Illinois, and Michigan, pay 43 parts, or \$3,054,000; Delaware, Maryland, and Virginia, 23 parts, or \$1,632,000; Kentucky and Tennessee, pay 21 parts, or \$1,490,000; North and South Carolina, Georgia, Alabama, Louisiana, and Mississippi, 41 parts, or \$2,907,000. In these estimates we have taken the two-fifths of the slave population unrepresented as equivalent to the consumption of the state of Maine, and the three territories and the District. Of this whole amount, not one dollar goes into the treasury, but the whole to the manufacturers of the eight states, as the result of the difference of price secured to them by the protective duty. This being the fact, the inquiry is presented to these eighteen states, whether, as a mere matter

of profit and loss, those states, or any portion of them, gain, in the protection afforded to *their productions*, an equivalent for this amount of indirect taxation? We think not, especially when it is considered that this consumption of the foreign article, thus excluded by the domestic, would have paid into the treasury the greater part if not the whole of the \$9,083,000, at no greater cost to *them*, and of a greater portion of which they would have got the benefit of the expenditure. And for this amount of duty, and the \$29,994,000 of the consumption, they have actually paid in their foreign exports, *though not into the treasury, or to the foreign producer*, as will appear by the statement of foreign exports above. The distribution which we have thus made of this tax among the states, as above, must, of course, be modified by the greater or less amount of their own domestic production of the several kinds."

While the majority proposed to raise the duties in order to increase the revenue, the minority seemed to apprehend danger to the revenue from the increase of home manufactures and the consequent diminution of importations; and they named several articles of which the quantity imported had been so diminished by the home manufacture, as to reduce the duties on them to an inconsiderable amount.

They controverted the doctrine of the protectionists, that the additional tax to the consumer is neutralized or compensated by the benefits derived from the domestic manufacture; and reassert, and endeavor to establish those which are usually maintained by the opponents of protection. They endeavored to show that the effect of high duties and protection hitherto in our country had been to excite ruinous competition, and to prevent an increase of revenue on particular articles of manufacture, of large consumption, proportioned to our increasing necessity for revenue. They also endeavored to show, that, whatever temporary benefits might have resulted to the people in manufacturing sections from high protection, those benefits would be only temporary; and that, if the farther protection now demanded should be afforded, it would hasten the evil day to them, which must come, and greatly aggravate the evil when it does come—a day when the legislation most friendly to the manufacturer, could not provide relief.

No question in political economy has been more fruitful of discussion than that of protection to domestic industry by duties on imports; none, probably, on which public opinion is still more equally divided. Statesmen of gigantic intellects, the most successful business men, of equal sagacity in private affairs, have, from the same evidence, formed directly opposite conclusions on this subject.

While the bill reported by the committee on manufactures was pending in the committee of the whole, the bill accompanying the report of

the secretary of the treasury, (Mr. Forward,) was reported to the house by Mr. Fillmore, from the committee of ways and means. This was considered as more particularly a *revenue bill*.

It will be remembered that, on the 30th of June, the last reduction provided by the compromise act was to take place. There being no prospect of the passage of any new tariff law in time to prevent the operation of that act, a bill had been reported, and was taken up the 10th of June, to extend, until the 1st of August next, all laws regulating duties existing and in force on the 1st of June, with a *proviso*, that nothing therein contained should suspend the operation of the distribution law—the law passed at the extra session the preceding year (1841) to distribute the proceeds of the sales of the public lands among the states. The first half yearly distribution under that act was to be made the 1st of July. Besides being simply designed to afford time to pass a permanent law, this proposed temporary act was deemed necessary for another purpose. Under the compromise act, there was to be from and after the 30th of June a home valuation, and cash duties. There had as yet been no law enacted to regulate the collection under those provisions; and it was questioned whether there was any law to enforce them.

In the debate on this bill, the proviso became a prominent topic of discussion. It will be recollected, that the distribution act contained a provision, that if at any time the duties under the compromise should be raised above the rates prescribed by that act, then the distribution should cease, and be suspended, until the cause of the suspension should be removed. This proviso to the distribution was, at the time of the passage of the bill, highly objectionable to many of the friends of distribution; but its adoption was found necessary to insure its passage; as the advocates of a low tariff were apprehensive that the abstraction of the money arising from land sales from the national revenues, would create a necessity for an increase of duties. Those who were in favor of high protective duties, desired the removal of the proviso of the distribution act, that the tariff might be raised without interfering with distribution. The day having been spent in the discussion of this proposed temporary extension bill, in committee of the whole, the committee rose and reported; when Mr. Fillmore offered a resolution to terminate the debate on the bill in half an hour; but the house "being evidently in a bad temper," Mr. F. waived the question for the day.

On the 14th, the resolution was modified so as to close the debate in committee the next day at 2 o'clock, and adopted. On that day, after having rejected an amendment proposing to strike out the proviso which prohibited the suspension of the distribution law, the bill was passed by

the house, 116 to 103. It passed the senate 24 to 19, and was sent to the president for his approval; who, on the 29th, returned it to the house with his *I forbidd*.

The bill was objected to because it abrogated, for the time, the provisions of the compromise act, that is, it continued the existing duties for one month after the 30th of June, when a reduction was to take place. The alleged necessity for the act was to enable congress to provide rules and regulations for assessing the duties on imports after the 30th of June, according to the home valuation and cash payments of duties then to take place; yet the bill provided, that if, before the 1st of August there should be no further legislation upon the subject, the existing laws were to be the same as if this act had not been passed. The distribution which was to be made the 1st of July, was also to be deferred until the 1st of August. He considered the present laws sufficient to enable the collecting officers, under the directions of the secretary, to levy the duties imposed by the act of 1833. The government, he said, was under moral obligation to adhere to the principles of the compromise. That act provided "that duties shall be laid for the purpose of raising such revenue as may be necessary to an economical administration of the government." It therefore justified any enlargement of duties required by the real exigencies of the public service. He admitted that an increase of duties was necessary; and congress might so discriminate as to give incidental protection to manufacturing industry.

But he considered it as an indispensable condition of an increase of duties, that the distribution of the proceeds of the land sales should be suspended; and which, by the distribution act, were to cease whenever the duties imposed by the compromise act should be raised above 20 per cent.; but the proviso of the bill under consideration would continue the distribution, notwithstanding, after the 1st of August. To abandon the principle for a month, is to open the way for its total abandonment. If such is not meant, why postpone at all? Why not let the distribution take place on the 1st of July?

The veto was equally the cause of joy to one party and of indignation to the other. Mr. Holmes, of South Carolina, said he had never felt a moment of such spontaneous, heartfelt thanksgiving to Heaven as he did at this moment. It had come from above to check the house's mad career, when it had undertaken to violate a sacred compact between the north and the south, and had rescued the country from impending civil war. If the madness of party should carry such a bill again, it would be vetoed again. This placed John Tyler in the head and forefront of the battle for the institutions of his country, and there the people would sustain him.

Mr. Granger called upon members to maintain their ground against the extraordinary assumption of executive authority developed in the veto message, and in support of the manufacturing interest as well as the distribution.

Mr. Saltonstall deplored that the debate had been prematurely entered upon, but contended against this unprecedented exercise of the veto power. The veto went on the naked principle of expediency. It was his opinion that the duties after to-morrow could not be collected, without a system of regulations.

Mr. Fillmore asked, on what principle this veto was based. The president could not consent that the distribution should cease for a single day. That was the profession; but it appeared to be but a pretense. What was the law which that message vetoed? It authorized the collection of duties for a single month as they were levied on the first of January last, to allow time for the consideration of a permanent revenue for the country; and postponed the distribution of the proceeds from the sale of the public lands till the month should expire, and congress could provide the necessary supplies for the exhausted treasury. Did the veto prevent distribution? By no means: it reduced the duties, in effect, to 20 per cent., and authorized the distribution of the land fund among the states, which would take place the day after to-morrow. Mr. F. said the secretary of the treasury doubted whether the duties could be collected, but the president had told the house that any farther law was unnecessary; he had power enough in his own hands, and he should use it. The question then was, whether congress or the executive should legislate for the people of this country.

Mr. Cushing advocated the veto power and this exercise of it; and insisted upon the land proceeds going into the treasury. It was the duty of the house to retract. He appeared to doubt that the revenue could be collected without farther legislation, but congress should immediately pass the necessary laws. The question was whether the government should be brought to a stand by the refusal of the house to perform its duty.

Mr. Briggs (next day) followed in opposition to the message, and to some of the remarks of his colleague (Mr. Cushing,) who had said that the issue was not between this house and the president, but between this house and the people. Had the president no issue with the people that had raised him to his office? Was not an overwhelming majority of the party that placed him in power in favor of distribution? His colleague said the house had an issue with the president. He (Mr. B.) had no such miserable views.

The debate was continued for several days, when, (July 4,) the ques

tion was taken upon the passage of the bill, notwithstanding the veto; ayes, 114; noes, 91; absent, 31. Rejected; two-thirds not voting in the affirmative.

The house, the next day, again took up the tariff or revenue bill, and the day following adopted a resolution offered by Mr. Fillmore, that the debate on the bill should cease on or before the 12th, at 12 o'clock. It was accordingly debated, and, having received sundry amendments, passed the house, July 16, by a vote of 116 to 112. This bill provided to continue the distribution of the proceeds of the public lands, notwithstanding the proposed increase of duties. It passed the senate on the 5th of August, by a vote of 25 to 23. The vote in both houses was almost a strict party vote. Only one democrat in the house, Mr. Parmenter, of Massachusetts, voted for the bill. Against it were 16 whigs, all but one from southern states. In the senate, the votes in its favor were all from whigs; against it, 3 whigs, Preston, Graham and Rives, all southern senators. The bill was sent to the president for his approval, and on the 9th was returned to the house with another VETO.

This veto—"ditto" veto, it was called—was taken up the next day for consideration. Mr. Adams addressed the house; and in the course of his speech made some severe animadversions upon the numerous vetoes of the president. He considered this last veto an "extraordinary exercise of power." The president, he said, seemed to be acting with reference to a reelection. He had united himself in some measure to the democratic party; but he (Mr. A.) predicted that, if that party succeeded, they would be as much thwarted by the president, as the party now in the majority had been.

On motion of Mr. Adams, the message was referred to a committee of thirteen members, who made a report, written by Mr. Adams, containing a review of the condition of the country, the action of congress, the frequent application of the executive veto to measures adopted by congress, and particularly the reasons assigned by the president for applying the power of negative to the last bill. The committee say:

"They perceive that the whole legislative power of the union has been for the last fifteen months, with regard to the action of congress upon measures of vital importance, in a state of suspended animation, strangled by the five times repeated stricture of the executive cord. They observe, that, under these unexampled obstructions to the exercise of their high and legitimate duties, they have hitherto preserved the most respectful forbearance towards the executive chief; that while he has, time after time, annulled by the mere act of his will their commission from the people to enact laws for the common welfare, they have forborne

even the expression of their resentment for these multiplied insults and injuries—they believed they had a high destiny to fulfill, by administering to the people in the form of law remedies for the sufferings which they had too long endured. The will of one man has frustrated all their labors and frustrated all their powers.

“The power of the present congress to enact laws essential to the welfare of the people has been struck with apoplexy by the executive hand. Submission to his will is the only condition upon which he will permit them to act. For the enactment of a measure earnestly recommended by himself he forbids their action unless *coupled* with a *condition* declared by himself to be on a subject so totally different, that he will not suffer them to be coupled in the same law. With that condition congress can not comply. In this state of things he has assumed, as the committee fully believe, the exercise of the whole legislative power to himself, and is levying millions of money upon the people without any authority of law.”

The report concludes with a resolution proposing an amendment to the constitution, requiring, instead of two-thirds, “a majority of the whole number” of members of each house to pass a bill against the president’s objections. It was signed by ten of the committee.

Another report was presented, by two of the committee, C. J. Ingersoll and James I. Roosevelt, in which they say it is not for their protest to explain or enforce the executive objections. Letting them speak for themselves, they vindicate constitutional rights and deprecate wrongs by congress. They considered it the duty of congress, not to adjourn without enacting a law for revenue. They should not afford the president’s great a triumph.

The remaining member, Mr. Gilmer, made a counter report and protest, in defense of the president, and in opposition to the tariff bill and the distribution of the proceeds of land sales.

Impelled by the necessity of providing additional revenue, a bill was in a few days hastened through the house, the same as that before passed, the clause having been struck out which required distribution, and the bill so modified as to admit free of duty, tea imported in American vessels from beyond the Cape of Good Hope, and coffee. The vote was 105 to 103. The bill was sent to the senate, where, having received some amendments, (afterwards concurred in by the house,) it passed 24 to 23, being *saved* only by Mr. Wright’s having voted with the whigs. No other democrat voted for the bill. The necessity of adopting some measure for revenue, rather than his approval of the bill, probably induced Mr. Wright to vote in its favor. The bill was approved by the president.

A separate bill was then passed, repealing the proviso of the distribution act, so as to allow the distribution to take place notwithstanding the increase of duties; but the bill was retained in the hands of the president, and thus defeated.

Besides the numerous petitions at this session of congress for a modification of the tariff, there were several memorials from the state of Maine, praying for relief from the effects of the want of reciprocity in the colonial trade between the United States and Great Britain, as established by the arrangement of Mr. M'Lane in 1830. * * *

It was stated in a memorial from Portland, presented to the house by Mr. Fessenden, that the effect of that arrangement had been to cripple our trade with the British West India colonies—which, though indirect, had been valuable—and to increase largely that of Great Britain. Nine-tenths of that intercourse had been carried on in American vessels; whereas, the amount of British and American tonnage was now about equal. The effect upon Maine had been peculiarly disastrous. Before the treaty went into operation, Maine had ten thousand tons of shipping employed in the trade with the British North American colonies alone. She had now been driven out entirely, while the shipping of the colonies had been increased four-fold, and they had a direct and unembarrassed trade with this country.

Another petition from that state declared that the opening of our ports to Great Britain had been obtained by fraud. She had promised reciprocity, but she would not grant it. A part only of her colonial ports had been opened. Those where return cargoes could be obtained for our vessels, remained closed. Nor did we, at the colonial free ports, enjoy equal privileges. Our vessels were subjected to many vexations and charges from which British vessels were exempt. The petitioners said, of the trade in plaster of paris, so important to that state, Maine had lost the greater part. Nearly 200,000 tons annually were exported from the provinces to the United States; the most of which had been transported in American vessels, but was now for the most part done by British vessels. From some of the quarries, we were entirely excluded. The same was true of the grindstone trade. The petitioners therefore prayed, that the effect of the proclamation of the president in 1830, making our ports free to the navigation of Great Britain, be done away, and that the navigation acts of 1818, 1820 and 1828 be revived. No action beyond the reception of the petitions appears to have been taken upon the subject.

The ineffectual attempts hitherto to settle the north-eastern boundary question have been already mentioned. The want of a territorial line had been the source of constant irritation to the inhabitants of both coun-

tries residing within the disputed territory, and of great annoyance to those of Maine in particular. Military forces had been called out by the authorities of both Maine and Canada to defend their respective territories against intrusion and depredation. A citizen of Maine had been taken prisoner on disputed territory. The act, however, was disclaimed by the British authorities, and the prisoner released. This controversy had been for many years a standing topic of presidential communication to congress, and had generally been represented as being in a state unfavorable to a speedy termination.

A new attempt at amicable adjustment by negotiation was made in 1842; and lord Ashburton was appointed by the British government as minister extraordinary to the United States for this purpose. He arrived in this country the 3d of April, and was introduced in due form to the president on the 5th. The expectations of a successful negotiation, founded upon the character of the British envoy, and the belief of the sincerity of the professed pacific intentions on the part of his government, were not disappointed. Commissioners appointed by the legislatures of Maine and Massachusetts, and also by the government of the province of New Brunswick, participated in the negotiation. On the 9th of August, a treaty of boundary was concluded, to the almost entire satisfaction of the negotiators, and to the country generally. Mutual concessions had of course been found necessary, with some of which, as it was natural to presume, the people of Maine were not fully satisfied.

The line, to some extent, corresponded to that proposed by the king of the Netherlands. The claim to that portion of the Madawaska settlement lying south of the St. John's river, strenuously maintained heretofore by Great Britain, was, after a warm contest with lord Ashburton, relinquished to the United States. The Aroostook, also in dispute, was yielded by Great Britain. A tract lying north of the St. John's and claimed by Maine, was relinquished for the free navigation of that entire river. Rouse's point also, of which Great Britain had for many years had possession, was relinquished to the United States. This treaty provided for settling the entire line between the two countries to the Rocky Mountains; for the final suppression of the slave trade; and for the giving up of criminals, fugitives from justice, in certain cases.

For the suppression of the slave trade, each of the parties was to maintain in service, on the coast of Africa, an adequate squadron, carrying not less than eighty guns; to be independent of each other, but acting in concert and coöperation. Persons charged in either country with murder, or assault with intent to commit murder, piracy, robbery, or forgery, and found in the other, were to be delivered up to justice.

The treaty was ratified by Great Britain the 13th of October, and on

the 10th of November, proclaimed by the president of the United States. The news of the ratification by the British government was received with general satisfaction. In some places public rejoicings were held; and much applause was bestowed upon Mr. Webster for his successful negotiation of the settlement of this long standing difficulty. Some of the British papers contained expressions of strong dissatisfaction with the concessions made by lord Ashburton.

CHAPTER LXIV.

ANNEXATION OF TEXAS.—THE PROJECT DEFEATED.—DEATH OF MESSRS. UPSHUR AND GILMER.

SINCE the rejection, by the administration of Mr. Van Buren, of the proposition for the annexation of Texas to the union, the subject had been permitted to rest in a state of comparative slumber. The project, however, had been by no means abandoned. Both the purpose and the object of annexation had been avowed by southern men and southern legislatures. A report of a committee of the legislature of Mississippi speaks of the importance of the annexation of Texas. It declares that slavery is "highly beneficial to the country within whose limits it is permitted to exist;" that "the south has very peculiar interests to preserve;" that "protection to her best interest will be afforded by the annexation of Texas; an equipoise of influence in the halls of congress will be secured, which will furnish us a permanent guaranty of protection."

The intentions of the south had been thus avowed by Mr. Wise, a confidential friend of president Tyler, on the floor of congress in 1842: "True, if Iowa be added on the one side, Florida will be added on the other. But there the equation must stop. Let one more northern state be admitted, and the equilibrium is gone—gone for ever. The balance of interests is gone—the safeguard of American property—of the American constitution—of the American union, vanished into thin air. This must be the inevitable result, unless, by a treaty with Mexico, the south can add more weight to her end of the lever! Let the south stop at the Sabine, (the eastern boundary of Texas,) while the north may spread unchecked beyond the Rocky Mountains, *and the southern scale must kick the beam.*"

Mr. Gilmer, a member of congress, and formerly governor of Vir.

ginia, wrote in January, 1842, to a friend: "Having acquired Louisiana and Florida, we have an interest and a frontier on the Gulf of Mexico, and along our interior to the Pacific, which will not permit us to close our eyes or fold our arms with indifference to the events which a few years may disclose in that quarter. We have already had one question of boundary with Texas; other questions must soon arrive, under our revenue laws, and on other points of necessary intercourse, which it will be difficult to adjust. The institutions of Texas, and her relations with other governments, are yet in that condition which inclines her people (who are our countrymen) to unite their destinies with ours. *This must be done soon, or not at all.*"

Resolutions of the legislature of Alabama in favor of annexation had been communicated to congress in 1843. And in the legislature of South Carolina, resolutions were proposed, asserting that *Texas was already a part of the union.*

President Tyler, in his annual message of December, 1843, intimated a strong disposition to interpose by force to put an end to the war between Texas and Mexico. The United States, he said, had an immediate interest in the matter. Texas had for eight years maintained her independence, which had been recognized by other powers; and the parent state ought so to regard and recognize hers; in doing which, Mexico would follow the example of Great Britain in respect to the United States. Texas was at the same time making movements towards annexation. Resolutions, and also a bill for this purpose, were introduced into the legislature. And it soon appeared that although the object was not made public, negotiation was in progress. It was stated in a Texas paper, that the opinion which had been there entertained, that president Tyler was secretly in favor of annexation, had proved to be correct. Despatches lately sent to the United States related to this subject. It appeared, so said the paper, that Mr. Upshu, the American secretary of state, had proposed to Mr. Van Zandt, the Texas chargé at Washington, to open a negotiation for annexing Texas to the union. This proved to be true. Mr. Webster resigned the office of secretary of state in May, 1843. No negotiation seems to have been attempted while he was in office. He was known to be opposed to the annexation. Mr. Upshur was appointed in June following. On the 27th of April, 1844, notwithstanding the injunctions of secrecy upon the action of the senate, the New York Evening Post announced the conclusion of a treaty for the annexation of Texas, which was then pending in the senate, and contained the president's message and documents which accompanied it. The treaty had been concluded at Washington on the 12th of April, by John C. Calhoun, secretary of state, on the part of the

United States, and Isaac Van Zandt, and J. Pinckney Henderson on the part of Texas, and communicated to the senate on the 22d, and ordered to be printed in confidence for the use of the senate.

From the correspondence accompanying the message, it would seem that the fresh impulse given to the annexation movement on the part of our government, was the apprehension that Great Britain was about to enter into a negotiation with the opponents of slavery in Texas, which contemplated its abolition in that country. This apprehension purported to be founded on a letter from a private citizen of the United States in London, stating that a Mr. Andrews, deputed by the Texas abolitionists, was then there for that purpose. The project was said to be, that money was to be advanced by a company to be organized in England, to purchase the slaves in Texas, and lands were to be taken in payment for the money thus advanced. Mr. Upshur, in his letter of the 8th of August, 1843, to Mr. Murphy, our chargé in Texas, after having made the above statement, says, "a movement of this sort can not be contemplated by us in silence;" and he states as a reason, that it was not to be supposed that the design of England was limited to the emancipation of a few thousand slaves in Texas; but that it was a part of her plan "to seek to abolish slavery throughout the entire continent and islands of America." As sugar and cotton could be raised cheaper by slave labor than by the labor of white men, Great Britain desired the abolition of slavery in the United States, Texas, and Brazil, in order to create a market for the productions of her East and West India colonies. It was stated, also, that Texas would afford a shelter for fugitive slaves. In view of these and other reasons given in his letter, he presses the subject upon the attention of Mr. Murphy.

Mr. Murphy, in his answer, dated September 23 and 24, 1843, having given some account of this Mr. Andrews, says he had, on his return from London to Texas, been driven away by force. The letter says also: "But the negotiation now on foot between Texas and Mexico, through the medium, or rather under the control, of Great Britain, has changed entirely the whole character of affairs, and demands the most prompt and energetic action of the government of the United States;" and he advises that immediate steps be taken for the safety of our "domestic institutions." Simultaneously with the date of the above letters from Mr. Murphy, September 23, Mr. Upshur writes again to Mr. Murphy, expressing the deep concern of the president in regard to the policy of England, and requests Mr. Murphy to communicate fully and freely with Mr. Thompson, our minister in Mexico. He also expresses fears that the British are endeavoring to obtain control of the gulf of Mexico, and urges the most untiring vigilance of the movements

of that government. He had already written (September 21,) to Mr. Everett, our minister at London, expressing the same alarm, and directing him to use all diligence in obtaining information on the subject. And on the 28th he wrote again to Mr. Everett, (confidentially,) saying it was "impossible to suppose that England was actuated by a mere feeling of philanthropy;" and he argues the necessity of slave labor in the production of sugar, cotton, and rice, the physical constitution of the African being much better adapted to tropical climates than that of the European. Their condition also would be made worse by emancipation. If Texas was a free state, the slaves of the South would only have to cross the Sabine or the Red River, and they would find themselves freemen.

Mr. Everett, in his answer, November 3, 1843, says he was told by lord Aberdeen, that "the suggestion that England had made or intended to make the abolition of slavery the condition of any treaty arrangement with Texas, was wholly without foundation." General Hamilton, a commissioner from Texas, had applied for a loan to Texas to be used to aid her in obtaining from Mexico the recognition of her independence, but his proposal had been declined. It however had no connection with the abolition of slavery. Among the correspondence there is also a letter from Mr. Pakenham, British minister at Washington, inclosing a letter from Lord Aberdeen, dated December 26, 1843, disavowing any design on the part of that government to interfere in the matter of slavery. He says: "Much as we should wish to see the slaveholding states placed on the firm and solid footing which we believe is to be obtained by general freedom alone, we have never in our treatment of them made any difference between the slaveholding and free states of the union. * * * Although we shall not desist from those open and honest efforts which we have constantly made for procuring the abolition of slavery throughout the world, we shall neither openly nor secretly," &c.

Delicately as the noble lord expressed the disapprobation of his government of slavery, and their determination to continue open and honest efforts to procure its abolition, Mr. Calhoun, in a reply to Mr. Pakenham, takes exception to this avowal, by Great Britain, that it was "her settled policy and the object of her constant exertions to abolish slavery throughout the world." The president, he said, regarded with still deeper concern the avowal of the desire of Great Britain to see slavery abolished in Texas. And Mr. Calhoun tells Mr. Pakenham, "that the consummation of her (Great Britain's) wishes in reference to Texas, would be followed by hostile feelings and relations between that country (Texas) and the United States, which could not fail to place her

under the influence and control of Great Britain." This, he says, "from the geographical position of Texas, would expose the weakest and most vulnerable portion of our frontier to inroads, and place in the power of Great Britain the most effectual means of effecting in the neighboring states of this union what she avows to be her desire to do in all the countries where slavery exists." And he informs Mr. Pakenham that the general government, acting in obedience to its obligation to protect the states against danger, had already concluded a treaty with Texas for her annexation to the union! He then undertakes to convince Mr. P. that the African race in this country are in a better condition as slaves than they would be if free, and that it would be far from wise or humane—indeed it would be "the greatest calamity to the race" to change their condition. But we may not pursue this sketch of the correspondence on this subject.

On the 8th of June, the question was taken in the senate on the ratification of the treaty, a majority of two-thirds being necessary to ratify. Only 16 senators voted in the affirmative, and 25 in the negative. Of the senators from the free states who voted for the treaty, were Messrs. Buchanan and Sturgeon, of Pennsylvania, Mr. Breese, of Illinois, and Mr. Woodbury, of New Hampshire. Of the democrats from the free states who voted against the treaty, were Mr. Fairfield, of Maine, Mr. Atherton, of New Hampshire, Mr. Niles, of Connecticut, Mr. Wright, of New York, Messrs. Allen and Tappan, of Ohio, and Mr. Benton, of Missouri, a slave state.

The vote on the question of ratification does not, however, indicate the views of senators on the abstract question of annexation. One objection to the treaty was, that it would involve the United States in a war with Mexico. Another was, that Texas claimed disputed territory; and to receive Texas would compel our government to defend the claim against Mexico. It was also objected, that annexation was unconstitutional.

In the debate in secret session on the ratification, a large number of senators took part; among whom were Messrs. Benton, Choate, Wright, Walker and M'Duffie; the two last in favor of the treaty; the others in opposition.

Mr. Benton's great speech was delivered on the 16th, 17th, and 20th of May, and was in support of resolutions offered by him on the 13th, declaring,

1st. That the ratification of the treaty would be the adoption of the Texian war with Mexico, and would devolve its conclusion upon the United States.

2d. That the treaty-making power does not extend to the power of

making war, and that the president and senate have no right to make war, either by declaration or adoption.

3d. That Texas OUGHT TO BE reunited to the American union, as soon as it can be done with the consent of a majority of the people of the United States and of Texas, and when Mexico shall either consent to the same, or acknowledge the independence of Texas, or cease to prosecute the war against her, (the armistice having expired,) on a scale commensurate to the conquest of the country.

Mr. Benton contended that the treaty proposed to annex much more territory than originally belonged to Texas; and therefore the proposition for the "*reannexation of Texas*" was a fraud in words. It was not pretended, even by those who used that word, that the *province* of Texas, when it was ceded in 1819 to Spain, extended farther than the boundaries included between the Sabine and the Rio del Norte, and the Gulf of Mexico and the Red River, whilst the *republic* of Texas, as defined in the treaty, included the whole extent of the Rio del Norte and embraced portions of the department of New Mexico with its capital, being many hundreds of miles of a neighbor's dominion, with whom we had treaties of peace and friendship and commerce—a territory where no Texian force had ever penetrated, and including towns and villages and custom-houses now in the peaceful possession of Mexico.

In a message to the senate subsequent to that accompanying the treaty, the president had asserted the doctrine, that the treaty signed by him was ratified from that moment; and, consequently, that part of Mexico above mentioned must be and remain "reannexed," until the acquisition should be rejected by the senate. In relation to this Mr. Benton speaks thus:

"The president in his special message of Wednesday last, informs us that we have acquired a title to the ceded territory by his signature to the treaty, wanting only the action of the senate to perfect it; and that, in the mean time, he will protect it from invasion, and for that purpose has detached all the disposable portions of the army and navy to the scene of action. This is a caper about equal to the mad freaks with which the unfortunate emperor Paul, of Russia, was accustomed to astonish Europe about forty years ago. By this declaration, the thirty thousand Mexicans in the left half of the valley of the Rio Del Norte are our citizens, and standing, in the language of the president's message, in a hostile attitude towards us, and subject to be repelled as invaders. Taos, the seat of the custom-house, where our caravans enter their goods, is ours; governor Armijo is our governor, and subject to be tried for treason if he does not submit to us; twenty Mexican towns and villages are ours, and their peaceful inhabitants, cultivating their fields

and tending their flocks, are suddenly converted, by a stroke of the president's pen into American citizens, or American rebels. This is too bad: and, instead of making themselves party to its enormities, as the president invites them to do, I think rather that it is the duty of the senate to wash its hands of all this part of the transaction by a special disapprobation. The senate is the constitutional adviser of the president, and has the right, if not the duty, to give him advice when the occasion requires it. I therefore propose, as an additional resolution, applicable to the Rio del Norte boundary only—the one which I will read and send to the secretary's table—and on which, at the proper time, I shall ask the vote of the senate. This is the resolution:

“Resolved, That the incorporation of the left bank of the Rio del Norte into the American union, by virtue of a treaty with Texas, comprehending as the said incorporation would do, a part of the Mexican departments of New Mexico, Chihuahua, Coahuila, and Tamaulipas, would be an act of direct aggression on Mexico; for all the consequences of which the United States would stand responsible.”

Having shown the effect of the treaty on the Rio Grande frontier, Mr. B. took up the treaty itself, under all its aspects and in its whole extent, and assumed four positions in relation to it; namely:

1. That the ratification of the treaty would be, of itself, war between the United States and Mexico.

2. That it would be unjust war.

3. That it would be war unconstitutionally made.

4. That it would be war upon a weak and groundless pretext.”

Mr. M'Duffie, on the 23d of May, replied to Mr. Benton. The question as to boundary, he said, had been exhausted by the conclusive argument of Mr. Walker, of Mississippi, and he would not discuss it. It had been contended by senators, that the ratification of the treaty would subject us to the charge of a violation of the public faith. In answer to this objection, Mr. M'Duffie referred to the case of France, in 1778. When the United States were waging an unequal war with Great Britain, she came to our aid, recognized our independence, and formed with us a treaty of alliance offensive and defensive. Had any historian mentioned this as a breach of national faith on the part of France? Had our government contracted such an alliance with Texas when Santa Anna was marching to meet a disgraceful defeat at San Jacinto, it would have violated no national faith, nor any dictate of international law. He contended that she had maintained her independence; we had recognized it: so had Great Britain, France, Holland and Belgium. She possessed all the attributes of national sovereignty, and the elements of self-government, more so than Mexico herself

Texas, he said, had a right to enter into a treaty of annexation if she chose; and who would deny her that right? Could she not dispose of herself as she pleased? And did it not follow that the United States had a corresponding and an equal right to receive her? The right of property implied the right of the proprietor to sell, and the correlative right of every other person to purchase.

But it was said the ratification would involve us in a war with Mexico. So he himself thought in 1836, when Texas was a "rebellious province;" but since the battle of San Jacinto, Mexico had not made a single military movement toward recovering her lost dominions. She had done nothing that deserved the name of war. Appealing to the gasconading proclamation of Mexico, the senator from Missouri had asked, "Is this peace?" The orders to the home squadron, and the army of observation sent to the Sabine, to watch the movements of Mexico, should any be made, and promptly report them to head quarters, that they might as promptly be reported to congress, the senator had pronounced an act of war. If to employ a corps of observation was to make war, then we were at war with the powers in the West Indies, on the Mediterranean, and on the coast of Africa; for we had squadrons in every sea to protect our commerce, and to make war on pirates. The proclamations of Mexico, and the counter proclamations and defiances of Texas, he did not consider war, as did the senators on the other side.

Mr. M'Duffie referred to the proposition to Mexico made by Mr. Clay, when secretary of state under Mr. Adams, in 1825, to purchase Texas, when the war between Spain and Mexico was still in existence. So in 1829, when Mexico was invaded by a large army, and her ports were blockaded, Mr. Van Buren, by order of Gen. Jackson, made to Mexico a proposition to purchase Texas.

Having advocated the *right* to receive Texas, he proceeded to show the duty of making the treaty. Great Britain should not be allowed to obtain the control of Texas by a treaty of guaranty stipulating for extensive commercial privileges. He had never till now realized the justice of Mr. Monroe's declaration, that no European power must ever be permitted to establish a colony on this continent. And he urged the danger to the slave property of the south, if Great Britain should get control of Texas. They had a right to demand from the government protection to their property. Annexation, too, would operate as a safety-valve to let off their superabundant slave population, which would render them more happy, and the whites more secure. And with regard to the time of annexation, he adopted the language of Gen. Jackson, now or never."

Immediately after the treaty was rejected, Mr. Benton gave notice of

a bill for the annexation of Texas, with the consent of Mexico. On the 10th of April, pursuant to notice, he brought in the bill, which authorized and advised the president to open negotiations with Mexico and Texas for adjusting boundaries, and annexing Texas to the United States, on the following bases:

1st. The boundary to be in the desert prairie west of the Nucces, and along the highlands and mountain heights which divide the waters of the Mississippi from those of the Rio del Norte, and to latitude 42 degrees north.

2d. The people of Texas, by a legislative act or otherwise, to express their assent to annexation.

3d. A state to be called "Texas," with boundaries fixed by herself, and an extent not exceeding that of the largest state in the union, to be admitted into the union by virtue of this act, on an equal footing with the original states.

4th. The remainder of the territory, to be called "The South-west Territory," and to be held and disposed of by the United States as one of their territories.

5th. Slavery to be forever prohibited in the northern half of the annexed territory.

6th. The assent of Mexico to such annexation and boundary to be obtained by treaty, or to be dispensed with when congress may deem such assent unnecessary.

7th. Other details to be adjusted by treaty so far as they may come within the scope of the treaty-making power.

On presenting his bill, Mr. Benton spoke nearly two hours. He said his was not a new burst of affection for the possession of the country, as his writings a quarter of a century ago would testify. He disapproved the course of the executive in not having first consulted congress. The rejection of the treaty having wiped out all cause of offense to Mexico, he thought it best to commence again, and at the right end—with the legislative branch, by which means we should proceed regularly and constitutionally. As to the boundary, he had followed the basis laid down by Jefferson, fixing, as the limit to be adopted in settling the boundary with Spain, all the territory watered by the tributaries to the Mississippi, and had made it applicable to Mexico and Texas. He did not attach so much importance to the consent of Mexico as to make it an indispensable condition, yet he regarded it as something to be respectfully sought for. But if it were not obtained, it was left to the house to say when that consent became unnecessary. He wished to continue in amity with Mexico. Those who underrated the value of a good understanding with her, knew nothing of what they spoke. Mexico

took the products of our farms, and returned the solid silver of her mines. Our trade with her was constantly increasing. In 1821, the year in which she became independent, we received from her \$30,000; in 1835, \$8,500,000. When we began to sympathize with Texas, this trade rapidly fell off, until it got down to one million and a half. As the earliest and most consistent friend of Texas, he desired peace with Mexico, in order to procure the ultimate annexation of Texas. If Mexico, blind to her interests, should refuse to let Texas take her natural position as a part of the valley of the Mississippi, let congress say in what case the consent of Mexico might cease to be necessary.

Mr. Benton severely censured that party, who, while an armistice was subsisting between Mexico and Texas, which bid fair to lead to peace, rushed in with a firebrand to disturb these relations of amity. For this act they must stand condemned in the eyes of Christendom. Every wise man must see that Texas and Mexico were not naturally parts of a common country. The settlements of Mexico had never taken the direction of Texas. In a north-eastern direction, they had not extended much over the Rio Grande; they had come merely to the pastoral regions, but had never professed strength enough to subdue the sugar and cotton sections. He alluded to his own far back prophecies and writings concerning Texas. Messrs. Walker and Woodbury he termed "Texas neophytes," who had been so anxious to make great demonstrations of love for Texas. For himself he had no such anxiety, because his sentiments had always been known. With him it was not a question "now or never," but Texas then, now, and always.

Mr. Benton said he had provided against another Missouri agitation. For those who regarded slavery as a great moral evil, in which he, perhaps, did not differ much from them, there was a provision which would neutralize the slave influence. He would not join the fanatics on either side—those who were running a muck for or against slavery.

Mr. McDuffie replied to Mr. Benton in a long, desultory speech, apparently intended rather to provoke by satire or irony, and to excite laughter, than to convince by argument. He remarked at the conclusion of his speech, that the bill of Mr. Benton was as likely as the treaty to bring us into a war with Mexico.

Mr. Benton, rising immediately, exclaimed, "But with this great difference! this great difference! that my bill refers the question of war with Mexico to congress, where all questions of war belong, and the negotiators of this treaty made war themselves! They, the president and his secretary of state, made the war themselves, and made it unconstitutional, perfidiously, clandestinely, and piratically. The secret orders to our army and navy were piratical; for they were without law

and to waylay and attack a friendly power with whom we have a treaty of amity; and as a member of a court martial, I would sentence to be shot any officer of the army and navy who should dare to attack Mexican troops, or ships, or cities, under that order. Officers are to obey lawful orders, and no others; and they are not to make war by virtue of any presidential orders, until congress has declared it." Mr. B. proceeded at some length to contrast his bill with the treaty, from which, he said, it was as different as light from darkness. It was respectful to Mexico, requiring her to be consulted before, not after the treaty. It assumed her consent to be necessary now, in the present state of the question between her and Texas; but it supposed a time when it would not be necessary, and of which congress was to judge. The ratification of the treaty would have been the adoption, by the senate, of the war made by the president and secretary.

Mr. McDuffie had taken exception to Mr. Benton's application of the word neophyte to the new friends of Texas. Mr. B. here indulged in a strain of mingled humor and satire. "The word can imply nothing offensive or derogatory. It is, indeed, a chaste and classic phrase, known to the best writers, both sacred and profane. St. Paul uses it in his epistles, (the Greek copies;) and, after naming him, no higher authority is wanted for what is gentlemanly and scholastic, as well as what is pious and Christian; but bring me a dictionary, (speaking to a page of the senate;) bring me Richardson, letter N, and see what he says."

The book was brought. Mr. B. read:

"NEOPHYTE—In French, neophyte; in Italian, neofito; in Spanish, neophyto; Latin, neophytus; Greek, neophutos; from *neos*, new, and *phuton*, a plant, a new plant; figuratively, a new convert; one newly implanted (s. c.) in the church; and consequently, newly converted to the Christian faith; one newly initiated, newly introduced or employed."

"This (resumed Mr. B.) is Richardson's definition and etymology; and nothing can be more classic or innocent. It is pure Greek, only modified in sound and termination, in going through six languages; and, both literally and figuratively, has an innocent and decent signification."

After some farther play upon the meaning and application of this word, he proceeds: "But to be done with joking. The senator is certainly a new plant, and an exotic, in the Texan garden; and those friends of his, the defense of whom has called him from a sick bed to do what he has not done, defend them—a task which would indeed require 'angels and ministers of grace,' these friends of his, they are also new plants and exotics and strange plants in the same good garden; and of them I must say, moreover, what I cannot and will not say of him—

they are intrusive, noxious, and poisonous weeds in that fair garden! I remember the time when they flung the whole garden, as a worthless incumbrance, away. And they enter it now, as the serpent did Eden, with deceit in the face and death in the heart."

Mr. Benton then proceeds to the discussion of the treaty; and in the course of his remarks, says: "The senator undertakes to answer my speech, but he avoids all the hard places. He says nothing of the two thousand miles of Mexican territory, (over and above Texas, and to which no Texian soldier ever went, except to be killed or captured,) and which, by the treaty is annexed to the United States. He says nothing about the private engagement for war against Mexico, and sending our troops to join president Houston. He says nothing about this open assumption of the purse and the sword; nothing about the admission of new states by treaty, without the consent of congress; nothing about the loss of Mexican commerce, and the alienation of all the South American states from our cause; nothing about the breach of the armistice, and breach of treaties with a friendly power; nothing about the Duff Green stories for making pretexts for predetermined conclusions; nothing, in fact, to the pregnant indications which show that the treaty was made, not to get Texas into the union, but to get the south out of it. He defends the feelings, not the doings of his friends. The great objections to the treaty are in its encroachments upon New Mexico, Chihuahua, Coahuila, and Tamaulipas; in its adoption of the Texian war; in its adoption of that war unconstitutionally; in its destruction of our trade with Mexico; in our breach of treaties, in the alienation of Mexico and all the South American states from us, our permanent loss of trade and friendship with those powers and the seeds of disunion (dissolution of our union) so carefully and so thickly planted in it. Above all, he says nothing to the great objection to admitting new states by treaty—an act which congress only can do. These are the great objections to the treaty; and all these the defender of the president and his secretary leaves undefended.

* * * "The senator from South Carolina, in his zeal to defend his friends, goes beyond the line of defense and attacks me; he supposes me to have made anti-annexation speeches; and certainly, if he limits the supposition to my speeches against the treaty, he is right. But that treaty, far from securing the annexation of Texas, only provides for the disunion of these states. The annexation of the whole country as a territory, and that upon the avowed ground of laying it all out into slave states, is an open preparation for a Missouri question and a dissolution of the union. I am against that; and for annexation in the mode pointed out in my bill. I am for Texas—for Texas with peace and

honor, and with the union. Those who want annexation on these terms should support my bill; those who want it without peace, without honor, and without the union, should stick to the lifeless corpse of the defunct treaty."

The president, having been foiled in his scheme of annexation by treaty, appealed to the house of representatives, in a message, dated the 10th of June, two days after the rejection of the treaty, accompanied by the rejected treaty with the correspondence and documents which had been submitted to the senate. The president says in the message, that he does not perceive the force of the objections of the senate to the ratification. Negotiations with Mexico, in advance of annexation, would not only prove abortive, but might be regarded as offensive to Mexico and insulting to Texas. We could not negotiate with Mexico for Texas, without admitting that our recognition of her independence was fraudulent, delusive, or void. Only after acquiring Texas, could the question of boundary arise between the United States and Mexico, a question purposely left open for negotiation with Mexico, as affording the best opportunity for the most friendly and pacific arrangements. He asserted that Texas no longer owed allegiance to Mexico; she was, and had been for eight years, independent of the confederation of Mexican republics. Nor could we be accused of violating treaty stipulations. Our treaty with Mexico was merely commercial, intended to define the rights and secure the interests of the citizens of each country. There was no bad faith in negotiating with an independent power upon any subject not violating the stipulations of such treaty.

In view of the importance of the subject, he invited the immediate attention of the representatives of the people to it; and for so doing he found a sufficient apology in the urgency of the matter, as annexation would encounter great hazard of defeat, if something were not *now* done to prevent it. He transmitted to the house a number of private letters on the subject, from citizens of Texas entitled to confidence.

Much had occurred to confirm his confidence in the statements of Gen. Jackson, and of his own statement in a previous message, that "instructions had already been given by the Texan government to propose to the government of Great Britain forthwith, on the failure of the treaty, to enter into a treaty of commerce, and an alliance offensive and defensive." He also referred the house to a letter from Mr. Everett from London, which he seemed to construe into an intention to interfere with the contemplated arrangement between the United States and Texas. Although he regarded annexation by treaty as the most suitable form in which it could be effected, should congress deem it proper to resort to any other expedient compatible with the constitution, and

likely to accomplish the object, he was prepared to yield his prompt and active coöperation. He says: "The question is not as to the manner in which it shall be done, but whether it shall be accomplished or not. The responsibility of deciding this question is now devolved upon you."

The message was communicated at too late a day for deliberation and action at this session. Congress adjourned on the 17th of June.

On the 28th of February of this year, (1844,) vacancies occurred in the offices of secretary of state and of secretary of the navy, by the death of Abel P. Upshur and Thomas W. Gilmer. Captain Stockton, commander of the United States ship Princeton, had been occupied in preparing a new apparatus for war, and had invited a large number of persons to witness its effects, and spend the day on board his ship. Among the guests were the members of the government and their families. On their passage down the Potomac, one of the large guns, carrying a ball of 225 pounds, was fired several times. On their return up the river, Captain Stockton consented to fire another shot, which burst the gun, and killed a number of the persons on board, among whom were the two secretaries. Mr. Upshur had been appointed in June, 1843, as successor to Hugh S. Legaré, who had succeeded Mr. Webster, and died about a month after his appointment. Mr. Calhoun was appointed in the place of Mr. Upshur; and John Y. Mason, of Virginia, in the place of Mr. Gilmer. [Note N.]

CHAPTER LXV.

THE PRESIDENTIAL CAMPAIGN OF 1844.

THE annexation of Texas was becoming a party question. As such it constituted a leading issue between the two great parties at the presidential election of this year.

The persons designated by public sentiment as candidates for the presidency, were Mr. Van Buren and Mr. Clay. The place appointed for the holding of the nominating conventions was Baltimore. The whig convention was to take place on the 1st of May; that of the democrats on the 27th. Agitated as the public mind was on annexation, the position of the candidates on this question naturally became the subject of inquiry. Mr. Clay having received several letters since his departure, in December, on a southern tour, requesting an expression of his opinion upon the question of the annexation of Texas to the United States, he addressed to the editors of the *National Intelligencer*, from Raleigh

North Carolina, a letter dated April 17, 1844, designed as an answer to the various communications which he had received.

Mr. Clay, expressing his views in general terms, said: "If, without the loss of national character, without the hazard of foreign war, with the general concurrence of the nation, without any danger to the integrity of the union, and without giving an unreasonable price for Texas, the question of annexation were presented, it would appear in quite a different light from that in which, I apprehend, it is now to be regarded."

In relation to the acquisition and relinquishment of Texas, he says: "The United States acquired a title to Texas, extending, as I believe, to the Rio del Norte, by the treaty of Louisiana. They ceded and relinquished that title to Spain by the treaty of 1819, by which the Sabine was substituted for the Rio del Norte as our western boundary. This treaty was negotiated under the administration of Mr. Monroe, and with the concurrence of his cabinet, of which Messrs. Crawford, Calhoun, and Wirt, being a majority, all southern gentlemen, composed a part. When the treaty was laid before the house of representatives, being a member of that body, I expressed the opinion, which I then entertained, and still hold, that Texas was sacrificed to the acquisition of Florida. We wanted Florida; but I thought it must, from its position, inevitably fall into our possession; that the point of a few years sooner or later, was of no sort of consequence, and that in giving five millions of dollars and Texas for it, we gave more than a just equivalent. But if we made a great sacrifice in the surrender of Texas, we ought to take care not to make too great a sacrifice in the attempt to reacquire it.

"My opinions of the inexpediency of the treaty of 1819 did not prevail. The country and congress were satisfied with it; appropriations were made to carry it into effect; the line of the Sabine was recognized by us as our boundary, in negotiations both with Spain and Mexico, after Mexico became independent; and measures have been in actual progress to mark the line, from the Sabine to Red river, and thence to the Pacific ocean. We have thus fairly alienated our title to Texas, by solemn national compacts, to the fulfillment of which we stand bound by good faith and national honor. It is, therefore, perfectly idle and ridiculous, if not dishonorable, to talk of resuming our title to Texas, as if we had never parted with it. We can no more do that than Spain can resume Florida, France, Louisiana, or Great Britain the thirteen colonies, now composing a part of the United States.

"During the administration of Mr. Adams, Mr. Poinsett, minister of the United States at Mexico, was instructed by me, with the president's authority, to propose a re-purchase of Texas; but he forbore even to

make an overture for that purpose. Upon his return to the United States, he informed me, at New Orleans, that his reason for not making it was, that he knew the purchase was wholly impracticable, and that he was persuaded that, if he made the overture, it would have no other effect than to aggravate irritations, already existing, upon matters of difference between the two countries."

Mr. Clay said the revolt of Texas had been greatly aided by citizens of the United States—in a manner, and to an extent which brought upon us the reproach of an impartial world; and we ought not to give occasion for the imputation of having instigated and aided the revolution with the ultimate view of territorial aggrandizement. Our recognition of the independence of Texas, had not affected or impaired the rights of Mexico; and she had continued to assert the right to resubjugate Texas. A temporary suspension of hostilities had been agreed on; but, he presumed, with the purpose, upon the termination of the armistice, of renewing the war and enforcing what she considered to be her rights. And if Mexico still persevered in asserting her rights by actual force of arms, our government, if it acquired Texas, would also acquire all her incumbrances, and among them, the war with Mexico. He would not involve the country in a war for the acquisition of Texas. There were those who regarded a war with Mexico with indifference, on account of her weakness. Justice and good faith were equally due to a weak as to a powerful nation. But were we certain that the contest would be with Mexico alone? Had we any security that countless foreign vessels, under the Mexican flag, would not prey upon our defenseless commerce in the Mexican gulf, or on the Pacific and every other ocean and sea? Might Mexico obtain no allies among the great European powers?

Assuming the annexation of Texas to be war with Mexico, was it competent for the treaty-making power to plunge the country into war, without even deigning to consult congress, to which alone the constitution entrusts the power to declare war?

Another objection to receiving Texas as an integral part of the union was, that it would be in decided opposition of the wishes of a considerable portion of the confederacy. He thought it more wise to harmonize the confederacy as it existed, than to introduce into it a new element of discord and distraction. Nor did he think the framers of the constitution contemplated adding to the union foreign territory out of which new states were to be formed. So Mr. Jefferson and others believed. The acquisition of Louisiana and Florida might be defended upon the ground of their peculiar relation to the United States. No such necessity existed in the present case.

Mr. Clay said there were those who favored and those who opposed the annexation of Texas, from its supposed effect upon the balance of political power between two great sections of the union. He discountenanced the motive of acquiring territory for the purpose of strengthening one part of the union against another. If to-day Texas should be obtained to strengthen the south, to-morrow Canada might be acquired to add strength to the north. In the progress of this spirit of universal dominion, the part of the union now the weakest, would find itself still weaker from the impossibility of securing new theaters for those peculiar institutions which it is charged with being desirous to extend. But he doubted whether Texas would really add strength to the south. From the information which he had of that country, he thought it susceptible of a division into five states of convenient size and form; three of which he thought would be unfavorable to the employment of slave labor, and would be free states, while only two of them would be slave states. This might serve to diminish the zeal both of those who oppose and those who urge annexation.

Besides, by the annexation of Texas, the United States would become responsible for her debt, which he had seen stated at thirteen millions of dollars.

In the event of an attempt by any European nation to colonize or subjugate Texas, he would regard it as the duty of the government of the United States to oppose, by force of arms, if necessary, the accomplishment of such design.

If, as was probable, there should, in the progress of events, be a separation of the British North American colonies from the parent country, it was his opinion that the happiness of all parties would be best promoted by their being erected into a separate and independent republic. The three republics, Canada, Texas, and the United States, would be natural allies, ready by coöperation, to repel any foreign attack upon either.

In conclusion, he thus sums up his opinions: He "considers the annexation of Texas, at this time, without the assent of Mexico, as a measure compromising the national character, involving us certainly in war with Mexico, probably with other foreign powers, dangerous to the integrity of the union, inexpedient to the present financial condition of the country, and not called for by any general expression of public opinion."

This letter was satisfactory to the party generally, although it did not fully express the views of the ultra slaveholding whigs, or of the mass of the whig party in the northern states. To the former it was not sufficiently favorable to slavery, while to the latter, the prospective increase of the slave power in the general government was the grand

objection to the proposed measure. Still, the fact of Mr. Clay's opposition to it, for other, though less weighty reasons, rendered him generally acceptable to the party in these states.

Notwithstanding Mr. Van Buren had long been the leading democratic candidate, and his nomination had been considered as almost certain, his availability began to be questioned by many prominent members of the democratic party. In the southern states, especially, where the deepest solicitude was felt for the annexation of Texas, the apprehension prevailed, that Mr. Van Buren, being a northern man, might not encourage this favorite scheme of the south. As the opinions of a candidate on this question were deemed all important in that section of the union, Mr. William H. Hammet, member of congress from Mississippi, and recently appointed a delegate to the approaching national convention, on the 27th of March, addressed Mr. Van Buren, requesting of him a public expression of his "opinions as to the constitutionality and expediency of immediately annexing Texas to the United States, or as soon as the consent of Texas might be had to such annexation."

Mr. Van Buren's answer is dated April 20, three days later than the letter of Mr. Clay on the same subject, but before its publication. The letter is one of very great length, in which the several points involved in this important question are elaborately discussed. It also contains many interesting historical facts, directly and indirectly relating to the subject.

As Mr. Clay had done under Mr. Adams, so Mr. Van Buren, in 1829, while secretary of state, by direction of Gen. Jackson, instructed our minister at Mexico to open a negotiation with the Mexican government for the purchase of the greater part of the then province of Texas. "In taking this step," he says, "the administration of president Jackson renewed (but as was supposed, under more favorable circumstances) an attempt to accomplish the same object which had been made by its immediate predecessor. Instructions, similar in their general object, had, in the second year of the latter administration, been sent from the department of state to the same American minister at Mexico. I am not aware that there were any material differences between them, other than those of 1827 proposed an acquisition of territory as far west as the Rio del Norte—being, I believe, the extreme western boundary of Texas—whilst the cession asked for by president Jackson extended only west as far as the desert or grand prairie, which lies east of the river Nueces; and that for the frontier the payment of one million of dollars was authorized, whilst, by the administration of president Jackson, the American minister was permitted to go as high as four, and, if indispensable, five millions. Both authorized agreements for smaller portions

of territory; and the payments were modified accordingly. In respect to the proposed stipulations for the ultimate incorporation of the inhabitants into the union, both instructions were identical.

"In August, 1837, a proposition was received at the department of state, from the Texian minister at Washington, proposing a negotiation for the annexation of Texas to the United States. This was the first time the question of annexing a foreign independent state had ever been presented to this government. In deciding upon the disposition that ought to be made of it, I did not find it necessary to consider the question of constitutional power, nor the manner in which the object should be accomplished, if deemed expedient and proper. Both these points were, therefore, in terms, passed over, in the reply of the secretary of state to the Texian minister, as subjects the consideration of which had not been entered upon by the executive."

He then proceeds to the discussion of the *constitutional power*. It may be proper here to premise, that as, by the constitution, the power to admit new states into the union is given to congress, Texas, it was inferred, could not be annexed, *as a state*, by the treaty-making power; and hence, if annexed by treaty, it could be done constitutionally only, if at all, by acquiring it *as a territory*. But as the constitution did not in terms confer upon either branch of the government the power to *purchase or otherwise acquire foreign territory*, the annexation of Texas, even as territory, was extensively questioned. As has been elsewhere stated, Mr. Jefferson and numerous other eminent statesmen, admitted the purchase of Louisiana to be unauthorized by the constitution, and justified it only on the ground of a necessity which, it was contended, did not in the present case exist. Congress, alone, had express power to purchase territory; only, however, so far as the objects were specified, viz., "for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." Thus, it is perceived, there was no way of acquiring foreign territory which did not present constitutional objections to some minds. The acquisition by treaty, palpable as its unconstitutionality has been deemed, had the sanction of precedent, and the acquiescence of the people, and was therefore liable to the least objection. This is the ground assumed by Mr. Van Buren.

"If," he says, "there be nothing in the situation or condition of the territory of Texas, which would render its admission hereafter into the union as a new state improper, I cannot perceive any objection, on constitutional grounds, to its annexation as a territory. In speaking of the right to admit new states, I must, of course, be understood, as referring to the power of congress. The executive and senate may, as I have already observed, by the exercise of the treaty-making power, acquire

territory ; but new states can only be admitted by congress." To sustain these propositions, he examines at length the constitution, the proceedings of the convention of framers, and the articles of confederation.

In answering the inquiry as to the *expediency* of annexation, he refers to a letter from secretary Forsyth to Gen. Hunt, the Texian minister, while he, Mr. Van Buren, was president. This letter, which stated his views and those of his cabinet, speaks thus : " So long as Texas shall remain at war, while the United States are at peace with her adversary, the opposition of the Texian minister plenipotentiary necessarily involves the question of war with that adversary. The United States are bound to Mexico by a treaty of amity and commerce, which will be scrupulously observed on their part so long as it can be reasonably hoped that Mexico will perform her duties, and respect our rights under it. The United States might justly be suspected of a disregard of the friendly purposes of the compact, if the overture of General Hunt were to be even reserved for future consideration, as this would imply a disposition on our part to espouse the quarrel of Texas with Mexico—a disposition wholly at variance with the spirit of the treaty, with the uniform policy and the obvious welfare of the United States.

" The inducements mentioned by General Hunt for the United States to annex Texas to their territory, are duly appreciated ; but, powerful and weighty as certainly they are, they are light when opposed in the scale of reason to treaty obligations, and respect for that integrity of character by which the United States have sought to distinguish themselves since the establishment of their right to claim a place in the great family of nations."

" The intimation in Gen. Hunt's letter that Texas might be induced to extend commercial advantages to other nations to the prejudice of the United States, was thus noticed :

" ' It is presumed, however, that the motives by which Texas has been governed in making this overture, will have equal force in impelling her to preserve, as an independent power, the most liberal commercial relations with the United States. Such a disposition will be cheerfully met, in a corresponding spirit, by this government. If the answer which the undersigned has been directed to give to the proposition of General Hunt should unfortunately work such a change in the sentiments of that government as to induce an attempt to extend commercial relations elsewhere, upon terms prejudicial to the United States, this government will be consoled by the rectitude of its intentions, and a certainty that, although the hazard of transient losses may be incurred by a rigid adherence to just principles, no lasting prosperity can be secured when they are disregarded.' "

These views, said Mr. Van Buren, though not satisfactory to Gen. Hunt, received the almost unanimous approval of the people of the United States. Even a resolution offered in the senate declaring annexation, "whenever it could be effected consistently with the public faith and treaty stipulations of the United States, desirable," was ordered to lie upon the table; and a similar disposition was made in the house of the papers upon the subject. Having taken this position when president, it was now his duty to consider whether the question had so far changed as to justify him now in advising a different policy. Were Texas and Mexico still at war, or were they not? Regarding a true answer to this question indispensable to a correct decision as to the expediency of annexation, we give here a copious extract from the letter:

"Mexico has been incessant in her avowal, as well to our government as to others, of the continuance of the war, and of her determination to prosecute it. How does Texas regard her position in respect to the war with Mexico? Three years subsequent to our recognition of her independence, we find her entering into a stipulation with a foreign power to accept of her mediation to bring about a cessation of hostilities between her and Mexico, engaging to assume a million sterling of the debt due from Mexico to the subjects of that power, if she, through her influence, obtained from Mexico an unlimited truce in respect to the war then raging between her and Texas within one month, and a treaty of peace in six. As late as last June, we see a proclamation of the president of Texas, declaring a suspension of hostilities between the two powers during the pendency of negotiations to be entered upon between them, issued on the supposition that a similar proclamation would be issued by Mexico; and actual hostilities are now only suspended by an armistice to be continued for a specified and short period, for the sake of negotiation. Nor are our own views upon the point less explicit. In the published letter of the late secretary of state, to the Mexican minister at Washington, written in December last, he says: 'Nearly eight years have elapsed since Texas declared her independence. During *all that time* Mexico has asserted her right of jurisdiction and dominion over that country, and has endeavored to enforce it by arms.' In the president's message to congress, it is stated that 'the war which has existed for so long a time between Mexico and Texas, has, since the battle of San Jacinto, consisted for the most part of predatory incursions, which, while they have been attended with much of suffering to individuals, and kept the borders of the two countries in a state of constant alarm, *have failed to approach to any definite result.*' And after commenting with much truth upon the insufficiency of the armaments which Mexico has fitted out for the subjection of Texas—on the length of time which

has elapsed since the latter declared her independence—on the perseverance, notwithstanding, in plans of reconquest by Mexico—on her refusal to acknowledge the independence of Texas, and on the evils of border warfare, the message adds: ‘The United States have an immediate interest in seeing an end put to the state of hostilities between Mexico and Texas.’

“But what, my dear sir, is the true and undisguised character of the remedy for those evils, which would be applied by the ‘immediate annexation of Texas to the United States?’ Is it more or less than saying to Mexico, ‘We feel ourselves aggrieved by the continuance of this war between you and Texas; we have an interest in seeing it terminated; we will accomplish that object by taking the disputed territory to ourselves; we will make Texas a part of the United States, so that those plans of reconquest which we know you are maturing, to be successful, must be made so against the power that we can bring into the contest; if the war is to be continued as we understand to be your design, the United States are henceforth to be regarded as one of the belligerents?’”

The sentiments expressed in the following extracts are worthy of all observation: “We must look to this matter as it really stands. We shall act under the eye of an intelligent, observing world; and the affair cannot be made to wear a different aspect from what it deserves if even we had the disposition (which we have not) to throw over it disguises of any kind. We should consider whether there is any way in which the peace of the country can be preserved, should an immediate annexation take place, save one—and that is, according to present appearances, the improbable event that Mexico will be deterred from the farthest prosecution of the war by the apprehension of our power. * * *

The question then recurs, if, as sensible men, we cannot avoid the conclusion that the immediate annexation of Texas would, in all human probability, draw after it a war with Mexico, can it be expedient to attempt it? Of the consequences of such a war, the character it might be made to assume, the entanglements with other nations which the position of a belligerent almost unavoidably draws after it, and the undoubted injuries which might be inflicted upon each—notwithstanding the great disparity of their respective forces, I will not say a word. God forbid that an American citizen should ever count the cost of any appeal to what is appropriately denominated the last resort of nations, whenever that resort becomes necessary either for the safety or to vindicate the honor of his country. There is, I trust, not one so base as not to regard himself and all he has to be forever and at all times subject to such a requisition. But would a war with Mexico, brought on under such circumstances, be a contest of that character? Could we hope to stand justified in the eyes

of mankind for entering into it ; more especially if its commencement is to be preceded by the appropriation to our own uses of the territory, the sovereignty of which is in dispute between two nations, one of which we are to join in the struggle ? This, sir, is a matter of the gravest import, one in respect to which no American statesman or citizen can possibly be indifferent."

An important suggestion of Mr. Van Buren was, that we were liable to be misled on this subject by the fact, that many, if not most of the persons in Texas to be affected by the decision of this question were once our own fellow-citizens ; and still had their relatives and friends amongst us, by a respect for whose feelings we were naturally influenced. Yet, he says : " Nothing is either more true or more extensively known, than that Texas was wrested from Mexico, and her independence established through the instrumentality of citizens of the United States." He says, however, that it was done against the efforts of our government to prevent our citizens from engaging in the enterprise. And he defends the government against the imputation of insincerity in these efforts, and of a desire to obtain in another way a portion of the territory of Mexico which we had failed to obtain by fair purchase or by negotiation. He said he knew from having been consulted by Gen. Jackson on the subject while the latter was president, that he was sincerely desirous to prevent the slightest violation of the laws.

Mr. Van Buren replies to the argument that the acquisition of Texas in the manner proposed, was liable to no greater objection now, than it was in 1827 and 1829, when it was attempted by two successive administrations (Adams' and Jackson's;) and also to the argument that, if Texas is not acquired now, the opportunity may be lost forever. The substance of the replies is, that, admitting what is here assumed to be true, it can not justify the committing of a wrong to secure the desired object. But in relation to the mode of acquisition, he did not admit the analogy which was claimed to exist between the present case and those of the two preceding administrations.

It was not long after this letter appeared, before it was apparent that Mr. Van Buren was to be abandoned. Movements were soon made in many places to prevent his nomination. Annexation was to southern democrats an object for which even Mr. Van Buren was not deemed too great a sacrifice. Meetings were held for the purpose of revoking the instructions which had been given to delegates to support Mr. Van Buren ; and resolutions were passed recommending to them to cast their votes for men known and pledged to be in favor of annexation. In New York and other northern states, the " democracy " protested against these southern movements to defeat Mr. Van Buren. Protests, however,

as the result soon proved, were unavailing; and Mr. Van Buren himself was compelled, for the harmony of the party, so far to defer to southern sentiment, as to authorize the withdrawal of his name if it should be found necessary.

The Whig national convention assembled at Baltimore on the 1st of May. Among the delegates were an unusual number of the most able and eminent men from all the states. Hon. Ambrose Spencer, of New York, was chosen president of the convention. No ballot for president was taken. A resolution was offered by Benjamin Watkins Leigh, of Virginia, declaring Henry Clay, of Kentucky, to be unanimously nominated as the whig candidate for the presidency, and was carried by acclamation. Theodore Frelinghuysen, was chosen, on the third ballot, as a candidate for vice-president.

The democratic convention, which assembled on the 27th, manifested a considerable want of unanimity. Mr. Van Buren, however, received a clear majority on the first ballot. The vote was, for Mr. Van Buren, 146; for Lewis Cass, 83; Richard M. Johnson, 24; for Mr. Calhoun, 6; and 7 for other persons. But a rule of the convention required a majority of two-thirds to nominate. On the eighth ballot, Mr. Van Buren received 104; Gen. Cass, 114; James K. Polk, 44. The delegations from New York and Virginia then retired separately for consultation. On their return, Mr. Roane, of Virginia, stated that the delegates from that state would vote for Mr. Polk. Mr. Butler, of New York, made the same announcement in behalf of the delegates from his state, with the exception of one, who would vote blank; and, at the same time, having authority for so doing, withdrew the name of Mr. Van Buren. On the ninth ballot, the vote was unanimous for Mr. Polk. Silas Wright, of New York, senator in congress, was nominated for vice-president. Mr. Wright, then at Washington, having declined the nomination, George M. Dallas, of Pennsylvania, was the next day nominated.

The nomination of Mr. Polk, took the country by surprise; to the friends of Mr. Van Buren, it was a painful disappointment. They acquiesced, however, in the nomination; and Mr. Polk probably received a more unanimous support from his party, than was given to his opponent, there being in the northern states a considerable number of whigs who regarded Mr. Clay's connection with slavery as an insuperable objection to their giving him their votes, and who consequently voted for Mr. Birney, the candidate of the abolition party. The letter of Mr. Van Buren on the annexation question, had doubtless contributed largely to defeat his nomination. Even with a unanimous nomination, his election was considered doubtful; and without the cordial support of the southern portion of the party, it was deemed almost hopeless. Mr. Polk

being known to be true to southern interests, would be likely to command even more than a party vote, (Mr. Clay being charged by his opponents in that section of the union with northern sympathies,) while at the north he was certain of receiving at least a full party vote, as northern democrats had hitherto, with great unanimity refused to make issue upon the question of slavery.

The whigs were in this respect less fortunate. Suspected by the more ultra portions of the whigs on both sides of the slavery question, Mr. Clay was several times addressed for a more definite expression of his views on the subject of annexation.

Being placed "between two fires," he found it not an easy matter to answer letters of inquiry from either section, without affecting his standing in the other. In his answer to one of these letters from the south, he wrote: "I consider the union a great political partnership; and that new members ought not to be admitted into the concern at the imminent hazard of its dissolution. Personally I could have no objection to the annexation of Texas; but I certainly would be unwilling to see the existing union dissolved or seriously jeopardized for the sake of acquiring Texas. If any one desires to know the leading and paramount object of my public life, the preservation of the union will furnish him the key." The expression that he had "personally no objection to annexation" was pertinaciously and vigorously pressed by the abolitionists as evidence that his influence, if he should be elected, would be given to that measure.

But there were other prominent party questions at issue in the presidential canvass of this year. A vigorous effort had been made at the preceding session of congress to modify the tariff. A bill had been reported in the house, which proposed to substitute *ad valorem* for specific duties on almost all articles, and to reduce them to rates little above those existing at the time of the passage of the act of 1842. The bill had been laid upon the table by a vote of 105 to 99. A general and powerful assault was made upon the tariff during the canvass. It was a regular topic of discussion in all the great political meetings during the campaign. A slight gain only of anti-tariff members at this election was necessary to effect the object contemplated by the above bill. This result was secured, a majority of low tariff members having been returned to the next congress.

A new question had been introduced by the democratic national convention, which had, as was supposed, considerable influence in determining the result of the election of 1844. The conflicting claims of the United States and Great Britain to a part of the Oregon country, have been mentioned. It will be recollected that, by an arrangement then

existing, the territory in dispute, which extended north to 54 degrees and 40 minutes north latitude, was to be occupied jointly by the parties; and that this joint occupancy might be terminated by either party giving to the other twelve months' notice of an intention to discontinue the same. A resolution was adopted by the democratic convention, declaring "that our title to the whole of Oregon is clear and unquestionable; that no portion of the same ought to be ceded to England or any other power; and the reoccupation of Oregon and the reannexation of Texas, at the earliest practicable period, are great American measures, which the convention recommends to the cordial support of the democracy of the union."

Mr. Van Buren's letter on annexation had been approved by the mass of the northern democracy. Hence the nomination of Mr. Polk was to them at first more than a mere matter of surprise. A candidate was presented to them whose views upon the most important question to be decided at the ensuing election were directly opposed to their own, and whom they could not support without subjecting themselves to the charge of palpable inconsistency. And for a time there were indications of extensive "bolting." The strength of party attachment, however, soon overcame all opposition to the nomination. Many who had deprecated annexation, became the most ardent and distinguished advocates of this "great American measure." But although Mr. Polk was supported by the democratic party at the north with great unanimity, there were those who gave their support with a *protest* against the adoption of the annexation project as a party measure. The organ of this class of democrats was the New York Evening Post, then, as now, a moderate and sincere opponent of slavery compromise and extension, whose editor, with six other gentlemen, issued the following private circular, which they sent to some of their friends in different parts of the state:

[CONFIDENTIAL.]

"SIR: You will doubtless agree with us, that the late Baltimore convention place the democratic party at the north in a position of great difficulty. We are constantly reminded that it rejected Mr. Van Buren and nominated Mr. Polk, for reasons connected with the immediate annexation of Texas—reasons which had no relation to the principles of the party. Nor was that all. The convention went beyond the authority delegated to its members, and adopted a resolution on the subject of Texas, (a subject not before the country when they were elected; upon which, therefore, they were not instructed,) which seeks to interpolate into the party code a new doctrine, hitherto unknown among us, at war with some of our established principles, and abhorrent

to the opinions and feelings of a great majority of northern freemen. In this position, what was the party at the north to do? Was it to reject the nominations and abandon the contest, or should it support the nominations, rejecting the untenable doctrine interpolated at the convention, and taking care that their support should be accompanied with such an expression of their opinion as to prevent its being misinterpreted? The latter alternative has been preferred; and, we think, wisely; for we conceive that a proper expression of their opinions will save their votes from misconstruction, and that proper efforts will secure the nomination of such members of congress as will reject the unwarrantable scheme now pressed upon the country.

"With these views, assuming that you feel on this subject as we do we have been desired to address you, and to invite the coöperation of yourself and other friends throughout the state:

"1st. In the publication of a joint letter, declaring our purpose to support the nominations, rejecting the resolutions respecting Texas.

"2d. In promoting and supporting at the next election the nomination for congress of such persons as concur in these opinions.

"If your views in this matter coincide with ours, please write to some one of us, and a draft of the proposed letter will be forwarded for examination."

The paper was signed by George P. Barker, William C. Bryant, J. W. Edmonds, David Dudley Field, Theodore Sedgwick, Thomas W. Tucker, and Isaac Townsend.

This circular by some means got out of its destined track, and soon found its way into the newspapers. It subjected its authors to the most vehement denunciation. The act was pronounced by the New York Plebeian, the organ of the conservative democracy, "treason under the mask of philanthropy—federalism under the guise of democracy—falsehood under the covering of truth." The signers of the circular were "a clique of self-righteous politicians," engaged in a "contemptible and impotent attempt to restrict the progress of republican institutions." The circular meant "treason—foul, abolition treason." "It would throw out the idea, that there was a diversity of sentiment among the democratic masses upon this vital movement of annexing Texas. It would deceive the country into the belief, that the democracy of the empire state had laid aside its patriotism, its love of country, its old fashioned republicanism, and, through these 'seven wise men,' stood ready to violate the compromise of the constitution, raise the black flag of political abolition, and stand a barrier resisting the onward march of the republic. It would, moreover, by 'confidential,' secret, wily, insidious organization, attempt to control our congressional nominations."

The editor of the Post said in reply, that the letter contained only the expression of opinions frequently repeated in that paper, and which would be repeated thereafter. He claimed the right to correspond privately on political subjects when he chose, and if his letters were pilfered and published, he merely asked the community to mark those who were concerned in the act as spies and thieves. He persisted in declaring the intention not to recognize the annexation of Texas as an issue between the two great political parties.

The presidential campaign of 1844 was highly animated—the more so from the new questions brought into the canvass. Never were the claims of candidates more closely examined or more vigorously contested. It was evident, soon after the nominations were made, that which party soever should be defeated, neither would be chargeable with inactivity. Probably in no other similar contest has a greater array of talent been marshaled into the field of political discussion. Some of the most eminent citizens, such as had held the highest official stations, enlisted during the campaign as regular itinerants, performing a circuit of half the union. Without undertaking to decide with which party was the balance of merit, it will hardly be disputed that the democrats had the advantage in the force or efficiency of argument in the popular assemblies. The appeals in behalf of the “lone star” seeking a union with the galaxy of American confederated states, could not fail to touch the republican sympathies of the nation; while the pledge of Mr. Polk to insist on “the whole of Oregon, or none”—“with or without war,” was no less effective with many who remembered the former wrongs of our old enemy.

Whigs, on the other hand, held up to public view the evils of slavery, and made impassioned appeals in behalf of suffering humanity; at the same time charging upon their opponents at the north an alliance with the propagandists of slavery in an attempt to increase its power in the government, by extending the slave territory of the union. But these arguments were lost upon men belonging to a party the first article of whose creed enjoined adherence to “regular nominations;” who were taught to eschew the question of slavery as a party question; and who held to the popular notion that all agitation of the subject only serves to aggravate the evil.

Not the least source of embarrassment to the whigs was the opposition of the abolition party. This party, though confessedly without the least hope of electing their candidates, were not less assiduous in their electioneering efforts than either of the other parties. Expecting their gains from the whigs, they came into direct collision with that party. Their expostulations with those whom they deemed “conscience whigs,”

were incessant, and not altogether without effect. Many, who were pledged against slavery, and who thought they were carrying out their principles by voting for the whig candidate, who, though a slaveholder, was opposed to a measure which must necessarily increase the political power of slavery, were dissuaded from their purpose. The inconsistency of voting for a slaveholder under any circumstances; "do right regardless of consequences;"—these and other like arguments were plied with great assiduity. Besides, Mr. Clay having written that "personally he had no objection to the annexation of Texas," it was argued that his alleged objections would readily yield to his personal feelings; and therefore he could be no more safely trusted than Mr. Polk. The abolitionists being unanimously opposed to annexation; the whigs had calculated on a large support from that party; whereas, the result showed a large increase of the abolition vote. In the state of New York, this vote was more than double its amount in 1842, the number of votes gained being more than sufficient, if they had been given for Mr. Clay, to have secured him the electoral vote of that state, and with it his election. The indignation of the whigs excited by the course of the abolitionists, found vent in the severest censures. This unexpected opposition, to which they ascribed the defeat of their favorite, oft-tried candidate, for whose election they were deeply anxious, and who, as they supposed, ought to have been deemed unexceptionable, under existing circumstances, to all opponents of slavery, was an offense which has not to this day been entirely forgotten or forgiven.

Of the electoral votes, Messrs. Polk and Dallas received 170; Messrs. Clay and Frelinghuysen, 105.

CHAPTER LXVI.

TERRITORIAL GOVERNMENT OF OREGON.—ANNEXATION OF TEXAS.—
FLORIDA AND IOWA ADMITTED.—UNIFORM TIME OF CHOOSING PRESIDENTIAL ELECTORS.—REDUCTION OF POSTAGE.

THE 2d session of the 28th congress commenced the 2d of December, 1844, and terminated with Mr. Tyler's presidential term, on the 3d of March, 1845. As was to be expected, the questions of the annexation of Texas, and of the occupation of the territory of Oregon, which had held so prominent a position among the issues at the late election

were introduced at an early day of the session. The president, in his annual message, recommended, with a view to protect and facilitate emigration to that territory, the establishment of military posts at suitable points upon the line of travel. Laws also should be made to protect the person and property of emigrants after their arrival. These measures were deemed necessary whatever might be the result of the pending negotiation.

A bill was introduced in the house on the 16th of December, by Mr. Duncan, of Ohio, to establish a territorial government in Oregon. The bill was subsequently read and referred; and on the 27th it was taken up for discussion. It embraced under the proposed government the whole territory west of the summit of the Rocky Mountains and between latitude 42 degrees and 54 degrees 40 minutes. In the course of the debate, the question of title was fully discussed; and our claim to the *whole* territory was advocated by democratic members. Some, however, regarded the bill as repugnant to that provision of our treaty with Great Britain which allowed a joint occupancy until after either party should have given the other twelve months' notice of a purpose to discontinue it.

The bill was opposed also as indiscreet and improper, as negotiations were in progress, and probably near a close. The proposed measure might break up the negotiation, and lead to war. It was unnecessary and premature. It should be deferred until the negotiation was ended. An amendment was proposed by Preston King, of New York, providing for giving the notice to the British government.

Mr. Adams was in favor of passing a joint resolution, directing the president to give notice to Great Britain that the joint occupancy must end in twelve months. This he thought the most likely mode of bringing the pending negotiation to a point. After having given the notice he should not object to passing the present bill with some modifications; and he hoped that in this manner we might obtain possession, if not of the whole that we claimed, at least of a very large part of it, without war. But to pass the bill in its present form, without notice, must lead to war, if it was not itself a war measure.

Mr. A. V. Brown, of Tennessee, who, as chairman of the committee on territories, had reported the bill, contended that the bill should be passed first, and notice given afterward.

Mr. Winthrop, of Massachusetts, moved an amendment, prohibiting slavery, which was adopted, 85 to 56.

An amendment was also made, providing that the act should not be construed as to interfere with the rights which British subjects might have under the existing treaty, until after the twelve months' notice should have been given. The bill passed the house, February 3, 1845, 140 to

59, and was sent to the senate for concurrence. A motion to take up the bill was made in that body on the 3d of March, the last day of the session, but it did not prevail. So the bill was lost.

Mr. Tyler had in previous messages recommended the taking possession of the territory, and at the session of 1842-3, a bill for that purpose had passed the senate, 25 to 21; but the house refusing to concur, the bill was lost. At the next session, (1843-44,) resolutions were introduced into both houses, proposing to give notice to Great Britain of the intended termination of the joint occupancy after twelve months; but the resolutions were not adopted. A material objection to their passage was the apprehension that it might prejudice the negotiation then pending.

But the great measure of this session (1844-45,) was annexation. The negotiation of the treaty with Texas, had stirred up afresh the belligerent spirit of Mexico, and had induced her to threaten Texas with a renewal of the war. The president, in his message, expresses the opinion, that the invasion of Texas would not be looked upon with indifference by our citizens of the adjoining states. Mexico, he said, had no just ground of displeasure. Texas was an independent power, and free to treat. No boundary had been defined by the treaty; this the executive had proposed to do upon terms which all the world would have pronounced reasonable. He believed, if the treaty had been ratified, it would have been followed by a prompt and satisfactory settlement of the difficulty with Mexico. An objection urged against the treaty was, that it had not been submitted to the ordeal of public opinion. Although he considered this objection untenable, he had submitted the subject to congress, whose action would be the best expression of popular sentiment. Congress having taken no definite action upon the subject, the question had referred itself directly to the states and the people; and their will had been expressed at the recent election, in favor of the immediate annexation of Texas.

On the 10th of December, Mr. M'Duffie introduced into the senate resolutions declaring the rejected treaty, to be "the fundamental law of union between the United States and Texas so soon as the supreme authorities of the said republic of Texas shall agree to the same." Mr. Benton at the same time gave notice of a bill "to provide for the annexation of Texas to the United States." This bill authorized and advised the president to open negotiations with Mexico and Texas for the adjustment of boundaries and the annexation of the latter to the United States, on the same bases as those stated in the bill introduced by him at the preceding session of congress. [See page 794.] On the 12th, in the house, Mr. C. J. Ingersoll, of Pennsylvania, reported a joint resolution for annexation, similar to that of Mr. M'Duffie, of the senate. Mr. Win-

throp, of Massachusetts, one of the minority of the committee, declared their dissent from the doctrines of the accompanying report; believing the resolution to be unconstitutional in form and in substance; inconsistent with the law of nations and the good faith of our own country; as likely to involve us in an unjust and dishonorable war; and eminently objectionable from its relation to the subject of slavery.

Resolutions of annexation were offered by several members of both houses. Among these was a joint resolution submitted to the senate by Mr. Foster, of Tennessee: "That congress doth consent that the territory properly included within, and rightfully belonging to the republic of Texas, may be erected into a new state, to be called the 'state of Texas,' with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the states of this union." The resolution was followed by these conditions and guaranties:

1. The adjustment of questions of boundary arising with other governments, to be laid before congress for its final action.

2. All mines, salt springs, public edifices, navy, fortifications, and other public property, to be ceded to the United States; but all public funds, debts, taxes, and dues of every kind, and all vacant and unappropriated lands to be retained by the state, and applied to the payment of her debts, for which the general government was in no event to become liable.

3. By consent of the state, four new states formed out of the territory thereof, might hereafter be admitted; those formed out of territory south of the Missouri compromise line, to be admitted with or without slavery, as the people of each might desire.

It will be seen that this resolution does not prescribe any form or mode of annexation. In regard to this, Mr. Foster was not determined. He was in favor of annexation; and if any mode could be devised which should appear to him to be in conformity to the constitution, he would unite in effecting the measure on the principles contained in his resolution.

In the house, on the 25th of January, the debate in committee of the whole having terminated at two o'clock, the committee proceeded to vote upon the resolution reported by Mr. Ingersoll, from the committee on foreign affairs, and on the various proposed amendments. After disposing of a number of these amendments, and amendments to amend the same, Mr. Milton Brown, of Tennessee, moved to amend a pending amendment, by substituting a resolution offered by himself on the 13th, similar to that of Mr. Foster of the senate; and which, on motion of

Mr. Douglas, of Illinois, was amended by adding, that, "in such state or states as shall be formed out of said territory north of the said Missouri compromise line, slavery or involuntary servitude, except for crime, shall be prohibited." Mr. Brown, having accepted this amendment, his proposition, as modified, was adopted, 109 to 99. The question was then taken on Mr. Weller's amendment, as amended by the substitution of that of Mr. Brown, and decided in the affirmative, 110 to 93.

The committee of the whole then rose, and reported to the house the resolution of the committee on foreign affairs, all after the enacting clause having been struck out, and Mr. Brown's resolution inserted. The speaker having announced the report of the committee of the whole, a number of members immediately sprung to the floor, and addressed "Mr. Speaker." Mr. Cave Johnson, of Tennessee, who was recognized by the chair, observed that it was time to put an end to this exciting question, and moved the previous question, which was seconded, 107 to 97, and the main question ordered to be put, 113 to 106: and the question, shall the house concur with the committee of the whole in adopting Mr. Brown's amendment, was taken, and decided in the affirmative: ayes, 118; noes, 101. The resolution was then ordered to a third reading, 119 to 97, and finally passed, 120 to 98.

From the classification of the vote as given by Niles, it appears that, of the 120 members who voted for the resolution of annexation, 112 were democrats, 53 from free, and 59 from slave states, and 8 were whigs—all from slave states. Of the 98 who voted in the negative, 28 were democrats, all from free states, and 70 were whigs, 52 from free, and 18 from slave states. Of the members from New York, 9 democrats voted for annexation, and 14 democrats and 10 whigs against it.

Another classification was as follows: The number of democrats voting was 140—81 from free, and 59 from slave states. Of the 81, 53 were for, and 28 against the annexation. The number of whigs voting was 78—52 from free, and 26 from slave states. Of the latter, 8 were for, and eighteen against. The 59 democrats from the slave states all voted for, and the 52 whigs from the free states all voted against annexation.

In the senate, on the 4th of February, Mr. Archer, from the committee on foreign relations, made a report on the joint resolution from the house to annex Texas. The report was accompanied by two resolutions—the first declaring that the resolution from the house be rejected; the other, that the several bills, resolutions, petitions, and memorials on the subject in the senate, and referred to the committee, be laid on the table. Mr. Buchanan, one of the committee, dissented from the report,

and declared himself to be in favor of the joint resolution from the house. The report did not discuss the propriety of annexing Texas, but was confined to the consideration of the *mode* proposed by the resolution. The committee concluded that if it could be effected at all constitutionally, it must be done by the treaty-making power.

The next day Mr. Benton submitted a bill, providing, "That a state, to be formed out of the present republic of Texas, with suitable extent and boundaries, and with two representatives in congress until the next apportionment of representation, shall be admitted into the union, by virtue of this act, on an equal footing with the existing states, as soon as the terms and conditions of such admission, and the cession of the remaining Texan territory to the United States, shall be agreed upon by the governments of Texas and the United States.

"2. That the sum of one hundred thousand dollars be appropriated to defray the expenses of missions and negotiations to agree upon the terms of said admission and cession, either by treaty to be submitted to the senate, or by articles to be submitted to the two houses of congress, as the president may direct."

A motion by Mr. Berrien to refer the bill to the committee on foreign relations was lost, 22 to 23.

The great debate in the senate on annexation was commenced by Mr. Morehead, of Kentucky, the 13th of February, on a motion for the indefinite postponement of the joint resolution from the house. Those who took part in the debate in favor of the resolution of annexation, were Messrs. Buchanan, Woodbury, Henderson, Colquitt, Merriek, Ashley, M'Duffie, Allen, Walker, and Johnson, of Louisiana. Against annexation were Messrs. Morehead, Rives, Choate, Barrow, Simmons, Huntington, Dayton, Berrien, Miller, Bagby, Upham, Bates, Crittenden, Archer, Foster, and Woodbridge.

Few debates have ever occurred in that body in which has been engaged a stronger array of talent, or which have been more highly characterized by legislative decorum, and the maintenance of senatorial dignity. It was one of the most important questions—perhaps the most important—ever decided by an American legislature—the incorporation of an independent foreign nation into our own, by a joint resolution—an act which was regarded universally as an exercise of an extremely doubtful power, and by many as unauthorized by the constitution upon any just principle of interpretation. Although the question had excited strong party feeling, the reported speeches evince entire freedom from acrimony and invective. The following account of the final proceedings of the senate upon the subject, was given at the time of their occurrence:

"The most intense anxiety has pervaded the public mind for the last

three weeks, and up to the time at which we go to press with this number, every moment adds fresh incident to the topic. For two weeks the United States senate chamber has been the focus. Upon that body the GREAT QUESTION devolved. Daily every avenue to the chamber was crammed by persons from all parts of the union. Foreign ministers, agents, and officers of all departments of the government were there—citizens and strangers—male and female. All seemed impressed with the gravity and importance of the question. The debate, for talent and eloquence, as a whole, has seldom had its equal, certainly never has been surpassed in either house of congress. The uncertainty of the result—how the vote would be, up to the last moment, served to call out on each side, the utmost strength of intellect and ardor. There is every reason to believe that, during the struggle, the majority wavered first to one side and then to the other, more than once. Notwithstanding the receipt of letters from the leading partisans of Governor Wright, of New York, in favor of passing the resolutions, and the consequent calculation upon the vote of both senators from that state, and notwithstanding the defection of one of the Maryland senators, (Mr. Merrick,) from the whig ranks, which for some days seemed to have turned the scale in favor of the resolutions from the house, it was finally ascertained that a majority could not be obtained unless the friends of those resolutions would consent to a modification to suit Col. Benton's views. Mr. Bagby, one of the senators from Alabama, though in favor of annexation, refused his sanction to its accomplishment by mere legislative resolution. He insisted upon preserving the treaty-making prerogative of the senate."

The resolution, as it came from the house, was, as has been stated, the same as that originally offered by Mr. Foster of the senate. As the vote was about to be taken, Mr. Walker, of Mississippi, proposed an amendment, by adding a resolution, "That, if the president of the United States, shall, in his judgment and discretion, deem it most advisable, instead of proceeding to submit the foregoing resolutions to the republic of Texas, as an overture on the part of the United States for admission, to negotiate with that republic; then

"*Be it Resolved*, That a state, to be formed out of the present republic of Texas, with suitable extent and boundaries, and with two representatives in congress until the next apportionment of representation, shall be admitted into the union, by virtue of this act, on an equal footing with the existing states, as soon as the terms and conditions of such admission, and the cession of the remaining Texan territory to the United States, shall be agreed upon by the governments of Texas and the United States.

"2. That the sum of one hundred thousand dollars be appropriated

to defray the expenses of missions and negotiations to agree upon the terms of said admission and cession, either by treaty to be submitted to the senate, or by articles to be submitted to the two houses of congress, as the president may direct."

After taking a recess, the senate met at 6 o'clock to determine the question. Mr. Foster proposed an amendment to that of Mr. Walker, which was rejected. Mr. Archer then proposed an amendment, directing the president to open negotiations with Texas for its annexation to the union. This was lost by a tie vote, 26 to 26. Mr. Walker's amendment then came up and was adopted: ayes, 27; noes, 25; every member being present. The resolution, as amended, was then ordered to a third reading by the same vote. The bill was then read a third time amidst a profound silence, and without the yeas and nays being called, and passed.

It remained for the house to pass upon the amendment. It was taken up the next day, (February 28.) A number of amendments were offered by the opponents of annexation, with the view, as was supposed, to "stave off" the question, in order to prevent a decision at this session, two days only remaining. But the friends of the measure, being bent upon consummating it before adjourning on that day, voted down all proposed amendments, and succeeded in bringing the house to a final vote at 6 o'clock in the evening. The amendment of the senate was concurred in, 132 to 76. The resolutions were the next day, (March 1,) approved by the president; and the triumph of annexation was complete. For, although the amendment of Mr. Walker submitted it to the option of the president to enter into negotiation for annexation, with the view of satisfying the scruples of senators against annexation by mere resolution, it is not probable that either Mr. Tyler or Mr. Polk would jeopard the measure by negotiation. It was said, however, that Messrs. Benton and Bagby, without whose votes the resolutions would have been lost, both voted for them from their confidence that Mr. Polk, upon whom it was supposed the choice would devolve, would elect that mode. But Mr. Tyler, contrary to the general expectation, seized upon the last moment of his official existence, to exercise, himself, the power conferred by the resolutions.

During the pendency of this important question, the opinions of many of our most eminent private citizens were made public. Mr. Webster January 23, 1844, in answer to a letter soliciting an expression of his opinion, referred to a speech of his in the city of New York, delivered about the time the proposition was made in 1837, during Mr. Van Buren's administration, in which speech he had stated objections to the measure, which remained unchanged. He objected to annexation on constitutional grounds. The constitution, he thought, did not contem

plate the admission of new states, except from territory then belonging to the United States. Louisiana had been since acquired from France, who had just obtained it from Spain. But the object of its acquisition was not mere extension of territory. Spain had held the mouths of the great rivers which rise in the western states, and flow into the gulf of Mexico. She had disputed our use of these outlets to the sea, and our commerce was in danger. That acquisition had necessarily brought territory with it. A similar necessity, though not so urgent, had led to the acquisition of Spain. But no such necessity required the annexation of Texas. The acceptance by the old congress, of the cession of territory from individual states, by the terms of which new states might be created and admitted into the union, it seemed reasonable to confine this provision to states to be formed out of territory then belonging to the United States. From what could be learned from the circumstances, and from men's opinions and expectations at that day, no idea was entertained of bringing into the union states formed out of the territories of foreign powers. Indeed, much jealousy was felt toward the new government, from fears of its overbearing weight and strength, when proposed to be extended only over thirteen states. And he mentions it as an "unaccountable eccentricity and apparent inconsistency of opinion, that those who hold the constitution of the United States to be a *compact between states*, should think, nevertheless, that the government created by that constitution is at liberty to introduce new states formed out of foreign territory, with or without the consent of those who are regarded as original parties."

Mr. Webster objected to annexation, on the ground of its extending slavery. He said: "By whomsoever possessed, Texas is likely to be a slaveholding country; and I frankly avow my entire unwillingness to do any thing which shall extend the slavery of the African race on this continent, or add slaveholding states to the union." The constitution, he said, found slavery among us, and gave it solemn guaranties. To the extent of these we were bound in honor and justice. But when new states claimed admission, our rights and duties were both different. He said: "When it is proposed to bring new members into this political partnership, the old members have a right to say on what terms such new partners are to come in, and what they are to bring along with them. In my opinion the people of the United States ought not to consent to bring a new, vastly extensive, and slaveholding country large enough for half a dozen or a dozen states into the union."

General Jackson, from the numerous letters written by him on the subject, seems to have felt a deep interest in the subject. A letter written by him as early as February, 1843, to Hon. A. V. Brown

though not published until a year or more afterward, strongly recommended the annexation of Texas. He urged as a reason its importance in a military point of view. In support of his proposition, he supposes the case of Great Britain forming an alliance with Texas, and designing war against the United States, and says: "Preparatory to such a movement, she sends her 20,000 or 30,000 men to Texas, organizes them on the Sabine, where her supplies and arms can be concentrated before we have even notice of her intentions; makes a lodgment on the Mississippi; excites the negroes to insurrection; the lower country falls, and with it New Orleans; and a servile war rages through the whole south and west. In the meanwhile she is also moving an army along our western frontier from Canada, which, in coöperation with the army from Texas, spreads ruin and havoc from the lakes to the gulf of Mexico."

This letter made its appearance just before the publication of Mr. Van Buren's letter on annexation. Mr. Van Buren being known to be the general's favorite candidate for the presidency, but differing with him on this question, it became a matter of speculation whether Gen. Jackson would not turn his influence against Mr. Van Buren. The public curiosity was soon relieved, however, by the appearance of a letter from the "Hermitage," in which Gen. Jackson expresses his adherence both to annexation and to Mr. Van Buren. He accounts or apologizes for such a letter by saying, that it was "evidently prepared from a knowledge only of the circumstances bearing on the subject as they existed at the close of his administration, without a view of the disclosures since made, and which manifest a dangerous interference with the affairs of Texas by a foreign power. As to the form of annexation, I do not think it material whether it be done by treaty, or upon the application of Texas, by an act or joint resolution of congress." Several other letters were written during the presidential campaign, in which he expressed the same apprehension as to the designs of Great Britain. The question was, "whether Texas and Oregon were to be considered as auxiliaries to American or to British interests." He alleged that Texas was independent; and therefore, as regarded our treaty with Mexico, good faith was not involved in our decision.

The opinion of Mr. Gallatin having been requested as to the constitutionality of Mr. M'Duffie's proposition for annexation, which was by a resolution, declaring the rejected treaty to be the fundamental law of union between the United States and Texas, he replies: "A doubt has been suggested, whether the general government has the right, by its sole authority, to annex a foreign state to the union. * * But it is unnecessary on this occasion to discuss that question. That now

at issue is simply this: In whom is the power of making treaties vested by the constitution? The United States have recognized the independence of Texas; and every compact between independent nations is a treaty." The constitution, he said, gave the treaty-making power to the president and senate. The senate had refused to give its consent to the treaty, and the resolution declared that it should nevertheless be made by congress a fundamental law binding on the United States. He says: "It substitutes for a written constitution, which distributes and defines powers, the supremacy, or, as it is called, the omnipotence of a British parliament." He considered it "an undisguised usurpation of power and violation of the constitution."

The dispute respecting boundary also was regarded by many as an insuperable objection to annexation. This objection, as has been seen, was strongly urged by Mr. Benton. The treaty, so far as it related to the boundary of the Rio Grande, he pronounced "an act of unparalleled outrage on Mexico—the seizure of two thousand miles of her territory, without a word of explanation, and by virtue of a treaty with Texas to which she was no party."

Senator Wright, of New York, made the same objection to voting for the treaty. In 1844, after the close of his senatorial services, in addressing a public meeting, he says: "I felt it my duty to vote against the ratification of the treaty for the annexation. I believed that the treaty, from the boundaries that must be implied from it, embraced a country to which Texas had no claim, over which she had never asserted jurisdiction, and which she had no right to cede. * * It appeared to me then if Mexico should tell us, 'We do not know you; we have no treaty to make with you,' and we were left to take possession by force, we must take the country as Texas has ceded it to us, and in doing that, we must do injustice to Mexico, and take a large portion of New Mexico, the people of which have never been under the jurisdiction of Texas. This to me was an insurmountable barrier: I could not place the country in that position."

From the fact that Louisiana was said to have extended to the Rio Grande, the inference has been drawn by some that that river formed the south-western boundary of Texas; and that although in our treaty with Spain for Florida we had relinquished that portion of Louisiana, the reannexation of Texas would restore the territory to that boundary. But it was maintained that Texas never extended to the westernmost line of Louisiana, as was evident from the well-known fact stated by Messrs. Benton, Wright, and others, that Texas had never even attempted to exercise jurisdiction over the towns and villages along that river; nor had she until a very recent period claimed the Rio

Grande to be the boundary. The declarations of these senators are supported by Texan authority. A map of Texas, published in 1837, and prepared by Stephen F. Austin, a prominent participator in the revolution, gives the Nueces as the south-western boundary.

Respecting the objects of annexation, some facts have already been given. Whatever other reasons may have existed, the design of extending and strengthening the dominion of slavery has been so often, openly and *officially* declared, as to leave no doubt that this was at least one of the leading objects of the measure. In addition to the numerous avowals, made before the treaty was concluded, is the acknowledgment of the secretary of state after it had been signed. Writing to our chargé in Mexico, he requests him, in making known to the Mexican government the fact that a treaty had been signed, and was about to be sent to the senate for ratification, to offer as a reason or apology for the act, "that the step was forced on the government of the United States in self-defense, in consequence of the policy adopted by Great Britain in reference to the abolition of slavery in Texas. It was impossible for the United States to witness with indifference the efforts of Great Britain to abolish slavery there. They could not but see that she had the means in her power, in the actual condition of Texas, to accomplish the objects of her policy, unless prevented by the most efficient measures; and that, if accomplished, it would lead to a state of things dangerous in the extreme to the adjacent states and the union itself. Seeing this, this government has been compelled, by the necessities of the case, and a regard to its constitutional obligations, to take the step it has, as the only certain and effectual means of preventing it."

But while the leading object of annexation was to give strength and security to slavery, the measure was doubtless aided by subordinate auxiliary influences. Mr. Benton, in a speech at Boonville, Indiana, in July, 1844, declared disunion to have been a primary object of the treaty; an intrigue for the presidency a secondary object; land speculation and stock-jobbing auxiliary objects. He said the quantity of land claimed by the treaty correspondence was 200 millions of acres; whereas Texas proper contained only 135,000 square miles, or 84,000,000 acres; the rest was to be taken from Mexico. To represent that there was any considerable quantity of good lands ungranted in Texas, was a fraud. They were not an equivalent for the ten millions of Texas debts which, by the rejected treaty, the United States were to assume.

Mr. Benton said the four objects above mentioned had brought forward the treaty at the time and in the manner in which it came, just forty days before the Baltimore convention, and at the exact moment to mix with the presidential election, and to make dissension and mischief

between the north and the south. He confined this charge to the prime movers and negotiators of the treaty. The land-speculators and stock-jobbers had acted a conspicuous part at Washington. "The city was a buzzard-roost! The presidential mansion and the department of state were buzzard-roosts! defiled and polluted by foul and voracious birds, in the shape of land-speculators and stock-jobbers, who saw their prey in the treaty, and spared no effort to secure it. Their own work was to support the treaty and its friends—to assail its opponents—to abuse senators who were against it—to vilify them, and lie upon them in speech and in writing—to establish a committee, still sitting at Washington, to promote and protect their interest."

Speaking of the debt of Texas, and of the interest which those who held this debt had in the treaty, Mr. B. said: "And what a debt! created upon scrip and certificates of every imaginable degree of depreciation, and now held by jobbers, most of whom have purchased at two cents, and five cents, and ten cents in the dollar, and would have sent their scrip where it bore six per cent., worth upwards of one hundred cents to the dollar the day the treaty was ratified; and where it bore ten per cent., as three millions of it did, would have been worth upwards of two hundred cents to the dollar. All this to go to the benefit, not even of Texas, but of speculators, and that while the United States refuse, and justly refuse, to assume the debts of her own states. These scrip holders were among the most furious treaty men at Washington."

Mr. B. then proceeded to expose the fraudulent statements in the treaty correspondence, that only sixty-seven millions of acres had been granted; and he showed from documents, a large number of grants, one of which contained forty-five millions of acres, nearly equal to the whole of Kentucky and Ohio. Some of them covered several degrees of latitude. The treaty was a fraud in not annulling the great grants made for considerations not fulfilled. Mr. B. repeated the charge of the design of disunion on the part of Mr. Calhoun and other southern men. To pick a quarrel with Great Britain, and also with the non-slaveholding states, was the open, undisguised object of the negotiation. The acquisition of Texas had been presented as a southern, sectional, slaveholding question; and the admission of Texan states was to be submitted to a house of representatives, of whom a majority of forty-six were from non-slaveholding states. This, he conceived, was to be done to have the Texan states refused admission, and a pretext furnished the southern states for secession. All this was so well known in South Carolina, that the cry of "Texas or disunion," had been raised, not only before the treaty was rejected, but before it was made!

Much had appeared in southern papers to favor the suspicion of the

designs imputed to southern politicians by Mr. Benton. A Calhoun paper at Columbia, South Carolina, after the appearance of Mr. Van Buren's letter on annexation, announced that whigs and democrats were dropping their party differences, and uniting like brothers upon the question of annexation "as one of absolute self-preservation." Mr. Van Buren was repudiated as a candidate for president, and could not be elected, if he should be nominated. He and Mr. Clay were "both dead, dead, dead, in the whole south." Nothing was to be expected from Cass or Stewart against the tariff; and there was no hope of the nomination of Tyler or Woodbury. The only hope of the south was in herself. Fears were expressed, that the treaty would be rejected, and that "Texas would be thrown into the arms of England."

A large meeting, attended by 600 persons, had already been held in the Barnwell district, at which a resolution was adopted recommending measures to be taken with a view to a southern convention of the friends of annexation, to be held at Nashville, Tennessee, to further the object. And a proposition from a citizen of Alabama seemed to find favor at the meeting, which was, that if the union would not accept Texas, then she should be annexed to the southern states. And it was proposed, that the proposed convention of the southern states should request the president to call congress together immediately, when the final issue should be made up, and the alternative distinctly presented to the free states, either to admit Texas into the union, or to proceed peaceably and calmly to arrange the terms of a dissolution of the union.

At another meeting, held in Beaufort, the tariff of 1842 was denounced; and a resolution was adopted, declaring, "that if they are not permitted to bring Texas into the union peaceably, they solemnly announce to the world, that they will dissolve the union sooner than abandon Texas." At a meeting in Union district, it was declared: "We desire no political connection with the declared enemies of our peace. We neither dally nor doubt. We hold to our rights—give up the union, and leave the consequences to God." Several other meetings were held, at which similar resolutions were adopted, and a southern convention proposed. Some of the Carolinians went so far as to counsel resistance by "state action." The leading advocate of this measure was the Hon. R. B. Rhett. It was, however, discountenanced by Mr. Calhoun and others, who were not yet ready for that kind of action.

At 4th of July celebrations, disunion was the leading theme of orations and toasts. On most occasions a southern convention was mentioned as the first resort; and if that should prove unavailing, then there must be a "speedy application of the 'rightful remedy.'" The union was spoken of as of little consequence, in comparison with the

annexation of the "lone star" to "the glorious galaxy of her southern sisters." One toast says: "Give us Texas or 'divide the spoons.'" Another: "Speedy annexation at all and every hazard." Indeed, the common sentiment, as expressed on public occasions, was, that Texas must be annexed, and the tariff of 1842 must be repealed, or disunion would take place.

The idea of a disunion convention at Nashville, did not find favor in Tennessee. At a meeting of the citizens of Davidson county, resolutions were adopted, "protesting against the desecration of the soil of Tennessee by any act of men holding within its borders a convention for any such object." Richmond, Virginia, having been proposed by some as a more suitable place than Nashville for the convention, an expression of feeling, similar to that of the citizens of Tennessee, was given at a Clay meeting in Richmond, against the holding of such a convention "in the land of Washington—in the capital of the state of his birth."

The repeal of the protective tariff was scarcely less an object of desire than the annexation of Texas, and the few northern democrats who had coöperated in defeating M'Kay's low tariff bill at the preceding session, were made the special objects of censure. The query has often suggested itself, whether southern statesmen have been sincere in their protestations against the tariff system as imposing upon them such intolerable burdens as in their view to justify resistance, or as taxing them at all. What has led many to suspect their sincerity is, that the question as regards additional taxation is not, or need not be, a matter of speculation, but is susceptible of being answered by a reference to facts. Purchasers can not help knowing when they are compelled to pay higher prices. Daily and weekly prices current determine this question infallibly. To these the advocates of protection have appealed in support of the proposition that prices have not been enhanced, by adequate protective duties. Since at every revision of the tariff, the opponents of the system have invariably predicted an oppressive increase of prices, no such permanent result having followed, many have regarded the complaints of the south as intended merely for effect.

Whilst efforts were making in congress, in 1844, to reduce the duties imposed by the act of 1842, which was represented as peculiarly oppressive in its operations, a number of the principal merchants in the city of Richmond, Virginia, published a comparative statement of wholesale prices of goods in the various branches of trade in that city, made up from actual sales in the year 1841, when the tariff, under the compromise act, ranged at the lowest rates of duty, and in 1843, the first year after the act of 1842 went into operation. Of a few articles only—some of the more important—the prices are here given:

	Prices in 1841.	Prices in 1843.
American bar iron, per ton,	\$85	\$70 to 75
English do do	70	57
Swedes do do	90	77
Tredegear Richmond manufacture	90	81
American blistered steel, per ton	115	95
Collins' best axes, per dozen	18	14
Castings, hollow, per pound	0 04	0 03 to 0 03½
Flat iron, do	0 07	0 05½ to 0 06½
Anvils, do	0 12½ to 0 16¾	0 09 to 0 14
Nails, Richmond made, do	0 05 to 0 05½	0 03¾ to 0 04
Sack salt ranged from	1 90 to 2 25	1 60 to 1 65

Spades and shovels, 20 per cent. less.

Cross cut and mill saws, 12½ per cent. less.

Wood screws, though prohibited by duty, were 20 per cent. lower, and of a much superior quality to those formerly imported.

	Prices in 1841.	Prices in 1843.
Cotton osnaburgs per yard	8 to 10c	6½ to 7½c
3-4 brown shirtings "	6¼ to 8½	4½ to 6¼
4-4 " " "	8½ to 11	6¼ to 8½
6-4 " sheetings "	11 to 14½	8½ to 10½
Domestic prints "	12½ to 18	8½ to 12½

During the year 1840, say these merchants, large quantities of British prints were imported, that cost from 22 to 28c per yard, and in 1843, prints of as good quality were produced in this country as low as 15c per yard, which entirely excluded British prints from our markets.

Irish linens were imported in 1841 duty free; in 1842, with a duty of 25 per cent. they were 20 per cent. lower than in 1841.

English and French cloths and cassimeres, paying a duty of 38 per cent. in 1841, and of 40 per cent in 1843, had fallen not less than 20 per cent.

From a statement made out in the treasury department, it appeared that the importations of gold and silver coin and bullion for the year ending September, 1843, amounted to \$23,741,641. During the *two* preceding years, they were but \$9,075,649.

It was apprehended in 1842, that, by raising the duties, the importations would be so diminished as to cause a serious decrease of revenue. [See report of the minority of the committee on manufactures, Chapter LXIII.] The result showed the apprehension to have been erroneous. The average yearly amount of receipts from customs for the years 1840, 1841, and 1842, was about \$16,000,000; for the years 1844, 1845, and 1846, it was upwards of \$26,000,000 annually

To the foregoing statements may be added the fact, that the rates of exchange and interest were greatly reduced. Reports of the money market in the spring of 1844, state that good paper was discounted in some of the eastern cities at 4 to 5 per cent., owing, it was said, to the reflux of specie from abroad, and especially to large deposits in the banks, as a result of the general prosperity of the country.

In view of these facts, which southerners themselves did not controvert, the question recurs, Did they believe their own representation of the injury inflicted upon them by the tariff? As to the *cause* of the improved condition of the country, there might be an honest difference of opinion, while in respect to the improvement itself, it is not easy to conceive how such difference could exist. The repeated failures of their predictions of the state of things which would necessarily follow the adoption of protective measures, should have induced them at least to distrust their own opinions. But it was with them a fixed theory, that to whatever extent, or from whatever cause, prices may have been reduced, the reduction would have been still greater had not the duties been imposed; and the supposed injury they suffered must have consisted, not in actual enhancement of prices, but in their being prevented by the tariff from falling as low as they would otherwise have done.

The presidential term of John Tyler expired on the 3d of March, 1845. The crowning act of his administration was the annexation of Texas. Whether the ultimate benefits of the acquisition will ever counterbalance its cost, has ever been a matter of doubt. To the debtor side is to be placed the war with Mexico, with its concomitant evils, the least of which was the debt contracted for its prosecution. One of the declared objects of the measure was "to extend the area of freedom." One of its consequences must infallibly be to keep alive the exciting question of slavery for an indefinite period, perhaps during the existence of the republic. The time is not distant when, to preserve the equilibrium of the slave states—the avowed object of annexation—applications will be made for the admission of new states formed out of the present state of Texas; and each successive demand for admission will revive the unhappy and distracting controversy.

Another effect has been apparently to weaken resistance to the extension of slavery. Each concession to the demands of the slave-holding states renders the next more easy. The fact that the constitution protects slavery, and permits its extension, has been interpreted into an argument for placing it, in respect to political power, on an equal footing with freedom. The idea is by no means confined to the south, that this claim of slavery to political equality should be conceded as a constitutional right. This sentiment has had no slight influence in disposing

the north, on each admission of a free state, to allow it to be counterpoised by the simultaneous admission of a slave state.

Constitutions for state governments having been presented to congress by the territories of Florida and Iowa, acts were passed for their admission as states into the union.

An act was passed at this session, to establish a uniform time for choosing presidential electors in all the states. Previously, they were required to be chosen within thirty-four days before they were to meet in their respective states to cast their votes for president and vice-president. By the act of 1845, the election in all the states for choosing the electors is on the Tuesday next after the first Monday of November.

The first act for the great reduction of postage, was also passed at this session. Postage was, by this act, reduced to five cents on single letters, carried not exceeding 300 miles; over that distance, ten cents.

CHAPTER LXVII.

INAUGURATION OF MR. POLK.—DEATH OF GEN. JACKSON.—WAR WITH MEXICO.—TREATY OF PEACE.

JAMES K. POLK was inaugurated as president of the United States, on the 4th of March, 1845. His inaugural address was one of unusual length, and presented his views much in detail. Having descanted on the excellency of our government, and the value of the union, he enjoined a sacred observance of the compromises of the constitution, and deprecated interference with certain "domestic institutions," as an "attempt to disturb or destroy the compromises of the constitution," which must "lead to the most ruinous and disastrous consequences." He expressed his "deep regret, that, in some sections of our country, misguided persons have occasionally indulged in schemes and agitations, whose object is the destruction of domestic institutions existing in other sections;" but he was "happy to believe that there existed among the great mass of our people a devotion to the union of the states which would protect it against the *moral treason* of any who would contemplate its destruction."

He declared his opposition to "national banks and other extraneous institutions, to control or strengthen the government." He regarded it his duty to recommend and "to enforce the strictest economy in the

expenditure of the public money." He congratulated the people "on the entire restoration of the credit of the general government, and that of many of the states." His policy in regard to the tariff is shadowed forth in his adoption of the following sentence: "Justice and sound policy forbid the federal government to foster one branch of industry to the detriment of another, or to cherish the interests of one portion to the injury of another portion of our common country." He was in favor of a tariff for revenue merely, but so adjusted as to afford incidental protection to home industry.

He congratulated the country on the reünion of Texas to the United States: it only remained to agree upon the terms. Other governments had no right to interfere, or to take exceptions to their reünion. "The world," he said, "has nothing to fear from military ambition in our government. While the chief magistrate and the popular branch of congress are elected for short terms by the suffrages of those millions who must, in their own persons, bear all the burdens and miseries of war, our government can not be otherwise than pacific." The annexation was "not to be looked on as the conquest of a nation seeking to extend her dominions by arms and violence, but as the peaceful acquisition of a territory once her own;" an act which he regarded as "diminishing the chances of war." Nor did the new president forget to reassert "our title to the country of the Oregon to be 'clear and unquestionable,'" and to pledge himself "to maintain, by all constitutional means, the right of the United States to that portion of our territory:" and he recommended that the jurisdiction of our laws should be extended over our emigrants in that country.

Mr. Polk's cabinet was constituted as follows: James Buchanan, of Pennsylvania, secretary of state; Robert J. Walker, of Mississippi, secretary of the treasury; William L. Marcy, of New York, secretary of war; George Bancroft, of Massachusetts, secretary of the navy; Cave Johnson, of Tennessee, postmaster-general; John Y. Mason, of Virginia, attorney-general.

In June, Louis McLane, of Maryland, (formerly of Delaware,) was appointed minister to Great Britain, in the place of Edward Everett, recalled. It was said that, before the selection of Mr. McLane for this mission, it had been offered successively to two citizens of South Carolina, Messrs. Pickens and Elmore; and, it was believed, also to Mr. Calhoun, of the same state, and Mr. Woodbury, of New Hampshire; all of whom had declined.

On the 8th of June, 1845, Gen. Jackson died at his residence, the Hermitage, aged 78 years. The announcement of this event produced a deep and general sensation throughout the country. Old party differ

ences were forgotten ; and the people of all classes and parties joined in appropriate demonstrations of respect to the memory of the departed hero and patriot. However public opinion may have been divided in relation to his merits as a statesman, few questioned the sincerity of his patriotism.

Mr. Polk, on his accession to the presidency, had upon his hands two foreign questions to dispose of—the controversy with Great Britain respecting her claims in Oregon, and the difficulty with Mexico arising from the annexation of Texas, still claimed by the former as a part of her territory.

On the 6th of March, 1845, only six days after the date of the act of annexation, the Mexican minister, Almonte, addressed to Mr. Calhoun, secretary of state, a letter, in which, pursuant to the instructions of his government, he protested against the act of congress dismembering the province of Texas, an integral part of Mexican territory, and admitting it into the American union. He declared the purpose of Mexico to enforce her right to recover the territory of which she had been unjustly despoiled ; and he gave notice of the termination of his mission, and asked for his passports. Mr. Buchanan, the new secretary of state, in reply, says, the president trusts that the government of Mexico will view the act in a more favorable light, and declares “ that his most strenuous efforts shall be devoted to the amicable adjustment of every cause of complaint between the two governments.” On the arrival of the news of annexation at the city of Mexico, diplomatic relations between the two governments there too were abruptly terminated ; and the proceedings of the Mexican congress manifested a highly belligerent spirit.

On the 4th of June, 1845, president Jones, of Texas, issued a proclamation, stating that Mexico was disposed to a peaceful settlement of difficulties, by acknowledging Texan independence, if Texas would maintain her separate existence, and declaring a cessation of hostilities against Mexico, till the subject could be laid before the Texan congress and convention of the people. This was regarded as evidence of the president's indisposition toward annexation. The congress assembled on the 16th of June, pursuant to the proclamation of president Jones ; who communicated the resolutions of annexation passed by the United States congress, and submitted to the senate the treaty proposed by Mexico for acknowledging the independence of Texas, upon three conditions, viz. :

(1.) Texas not to annex herself or become subject to any country whatever. (2.) Limits and other arrangements to be matters of agreement in the final treaty. (3.) Texas to consent to refer the disputed points with regard to territory and other matters, to the arbitration of umpires. The senate, it was said, unanimously rejected the proposition

from Mexico, and adopted resolutions accepting the terms for annexation to the United States.

Mexico considered annexation on our part as an act of war, and declared her intention to resent the injury, and to resort to arms. War appeared for a time to be inevitable. In compliance with the request both of the congress of Texas and the convention of the people, our government sent an army into that territory to defend it against the threatened invasion. President Polk, in his message to congress of December, 1845, said he "deemed it proper, as a precautionary measure, to order a strong squadron to the coast of Mexico, and to concentrate a sufficient military force on the western frontier of Texas." The army, he said, had been ordered to take position between the Nueces and the Del Norte. Both the army and the navy had been instructed to commit no act of hostility against Mexico, unless she declared war, or commenced aggressions. The result had been, he said, that Mexico had made no aggressive movement.

The president complained of the delinquency of Mexico in the payment of the instalments of the indemnity. Only three of the twenty quarterly instalments had been paid; and seven of the remaining seventeen were due. The claims of more than three millions which had been left undecided by the commission, had since been recognized by a treaty providing for their examination and settlement by a joint commission. This treaty, concluded at Mexico, in November, 1843, had been ratified by our government, but it had not yet received the ratification of the Mexican government.

Not possessing the power, without the authority of congress, to enforce adequate remedies for the injuries we had suffered, and Mexico having made no hostile movement for many weeks after our army and navy had been on the frontier, the president had taken measures to ascertain the purposes of the Mexican government, and in November an answer had been received, declaring its consent to renew diplomatic relations. A minister, (Mr. Slidell, of Louisiana,) was accordingly sent, with power to settle all pending difficulties. From the tone of the message, it was reasonable to infer, that, if negotiation should fail, war would ensue.

Whatever hopes may have been entertained of a successful negotiation, were soon disappointed. The resumption of negotiations was agreed upon with the government of Mexico under the administration of president Herrera. But scarcely had our minister reached his destination, before the government had undergone another of those revolutions which kept that country in a state little better than one of complete anarchy. Gen. Paredes, who commanded the forces destined for the Texan frontier, having been informed of the intended negotiation by which it was

apprehended that a part of the Mexican territory was to be surrendered to the United States, and being determined to prevent it, returned with his army to the city of Mexico, where he was joined by the regular army, and assumed the government. It appeared, however, that, before the arrival of Paredes, the government had refused to receive our minister, on the ground of the inadequacy of his special power to treat upon the questions which were intended by the Mexican government to be made the subject of negotiation. Mr. Slidell, not being received, retired to Jalapa, where he remained until the 28th of March, 1846, when he departed for home. The government of Mexico refused to recognize him, except for the purpose of treating in relation to Texas and the boundary. He had, in obedience to his instructions, demanded to be received as a minister plenipotentiary.

The act of annexation was consummated on the 4th of July, 1845; the people of Texas represented in a state convention, having accepted terms proposed by our government. Immediately after this event, the president, aware that it would be considered by Mexico as an act of war on the part of the United States, and apprehending hostilities as a consequence, ordered Gen. Taylor with his troops to some place on the gulf of Mexico, from which he could, when necessary, proceed to the defense of the western frontier of Texas. The place selected by Gen. Taylor, was Corpus Christi, on the west side of the Nueces, the extreme western settlement made by the people of Texas. Gen. Taylor was instructed by the department not to disturb "the Mexican forces at the posts in their possession" on the east side of the Rio Grande, "so long as the relations of peace between the United States and Mexico continue." He was repeatedly directed to confine his defense and protection of Texan territory, so far as the same had been occupied by the people of Texas, and not to interfere with any "Mexican settlements over which the republic of Texas did not exercise jurisdiction at the period of annexation, or shortly before that event."

The army, after having been at Corpus Christi from August to January, and no hostile act having been committed by the Mexicans, was ordered, in January, 1846, to take position on the left bank of the Rio Grande. It left Corpus Christi early in March. Gen. Taylor, with a company of dragoons commanded by Col. Twiggs, in advance of the main army, arrived at Point Isabel, on the north side of the Rio Grande, on the 24th of March, the distance from Corpus Christi, being 119 miles. Point Isabel is a few miles below Matamoras, which is on the opposite side of the river. The fleet of transports reached the same place half an hour after. When near Point Isabel, Gen. Taylor was met by a deputation of 30 or 40 men, with a message from Gen. Mejia, a Mexican

commander, protesting against the invasion. On the approach of the fleet of transports, the custom-house at Point Isabel, and several other buildings were set on fire by the Mexican commandant, and consumed. On the 28th, the army of occupation, consisting of about 3,500 men, arrived and camped opposite Matamoras. About one month after the arrival of our army at the Rio Grande, hostilities were commenced.

On the 11th of May, congress received from the president a message, announcing a state of war, which, he said, had been commenced on the part of Mexico, whose government, "after a long-continued series of menaces, had at last invaded our territory, and shed the blood of our fellow-citizens on our own soil." The president "invokes the prompt action of congress to recognize the existence of the war, and to place at the disposition of the executive the means of prosecuting the war with vigor, and thus hastening the restoration of peace."

A bill providing for raising the necessary men, and money, (\$10,000,000,) was immediately reported in the house of representatives, and passed that body 142 to 14. The senate passed it the next morning, after a slight modification, 40 to 2, and returned it to the house the same evening. The next day (13th,) the amendments of the senate having been concurred in, the bill was signed by the presiding officers of the two houses and the president, who on the same day issued the war proclamation.

The vote on the passage of the bill is not an accurate expression of the sentiment of either house on the war question in general; but only as to the proper course to be pursued *under existing circumstances*. A large number, probably most of the whigs, believed the war to be unjust on the part of the United States; its cause being the dismemberment of a part of the territory of Mexico. They also considered the war to have been unconstitutionally made by the president. His ordering the army into Mexican territory was an act of war, tantamount to a declaration of war, which the constitution devolved exclusively upon congress. Many who entertained these views voted for the bill, believing that, war existing, from whatever cause, or however unlawfully made, it was the duty of every citizen to support it. The mass of those even who had throughout denounced the course of the government as a series of outrages upon the rights of Mexico, seemed to concur in the popular sentiment: "Our country, right or wrong"—"We are in a war, and, however unjust, we must fight it out." Others voted for the bill from the bare motive of *expediency*, remembering the fate of those who opposed the war of 1812.

The opponents of the administration being known to differ with the majority respecting the origin and the justice of the war, and yet to be in favor of furnishing supplies for the army, the majority took advantage

of this latter fact to obtain from the minority a formal sanction of the war. For this purpose, the bill was preceded by a preamble, declaring the war to exist *by the act of the republic of Mexico*. In the senate, appeals were made to the majority to waive this declaration, and a motion was made to strike out the preamble, but it was lost, 18 to 28. Several of the minority voted for the bill, trusting to a future opportunity to justify themselves. Some voted under formal protest; and others refused to vote at all. Senators Mangum, John M. Clayton, and Dayton, had their protests against the preamble entered on the journal. Thomas Clayton and John Davis voted in the negative.

But for the preamble, the bill would probably have passed the senate unanimously. To that, there were two objections. One was, that a state of war did not exist; and another, that, if it existed, it was not by the act of Mexico. The latter, of course, involved the question of boundary; the existence of war by the act of Mexico necessarily presupposing the Rio Grande to be the boundary between that country and Texas. Unless this was the fact, it was not true, as the president had averred in his message, that Mexico had "invaded our territory, and shed the blood of our fellow-citizens on our own soil."

The members of the house who voted against the bill, were Messrs. Adams, Ashmun, Grinnell, Hudson, and King, of Massachusetts; Severance, of Maine; Cranston, of Rhode Island; Culver, of New York; Strohm, of Pennsylvania; Giddings, Root, Tilden, and Vance, of Ohio.

Garrett Davis, of Kentucky, asked to be excused from voting on the bill. No opportunity had been allowed a whig to say a word upon it. There was no need of such unparalleled haste. Gen. Taylor had, in the exercise of his discretionary power, vested in him by the executive, called on the governors of the contiguous states for ten thousand troops, and had probably ere now obtained aid, and beaten back the enemy. One day might be given to the consideration of the bill. He objected to the preamble of the bill, because it set forth a falsehood. It was true that an informal war existed; but that Mexico commenced it, was utterly untrue. He was in favor of the provisions of the bill; for, whether on our own territory or that of Mexico, if the army was in danger, he would vote for the men and money required for the rescue. But he protested against defiling the measure with the unfounded statement that Mexico had begun the war. The purpose of its authors was to make the whigs vote against the administration, or force them to aid in throwing a shelter over it by voting for a bill which set forth that this needless and unexpected war was commenced by Mexico.

If, said Mr. D., the bill contained any recitation on that point, in

truth and in justice, it should be that this war had been begun by the president. The Nueces was the boundary. The country between that river and the Del Norte was in possession of, and inhabited by, Mexico. The president had of his own will ordered Gen. Taylor and his army to take post at Corpus Christi, on the west bank of the Nueces, and, several months afterward, he had ordered him through the disputed country to the Del Norte. The Mexican authorities had met him, and protested against the aggression, and warned him to retire east of the Nueces, or he would be deemed to be making war upon Mexico; and they would resort to force. In execution of his orders from the executive, he presses on to Matamoras, mounts a battery of cannon within three hundred yards of it, whence he could, in a few hours, batter it down. He then blockades the port of Matamoras, orders off English and American vessels, and directs the capture of a Spanish schooner. The Mexican commander treats these acts as acts of war; and on the 25th of April, Gen. Taylor is informed by a messenger from the Mexican camp, that hostilities exist, and will be prosecuted according to the laws of civilized nations. That night a detachment of the Mexican army crosses the Rio Grande; Gen. Taylor sends out a scouting party to reconnoitre, which attacks the Mexicans, and is defeated and captured by the Mexicans; and thus war is raging in bloody earnestness.

It was our own president who had begun this war. He had been carrying it on for months in a series of acts. Congress, which was vested with the sole power to make war, he had not deigned to consult, or to ask for authority. Now, when it had unexpectedly broke forth in bloody reverses, his friends sought to protect him by charging Mexico with being the author of the war; and he, in cold blood, taught others to sacrifice a brave and veteran officer, whenever it might become necessary to cover his mistakes and incompetency. He had got the nation into difficulty, from which he could not relieve it; and he now asked congress to assume his duties and responsibilities. Mr. D. repeated his readiness to vote for supplies, at the same time protesting against the falsehood. He would fight the Mexicans until we drove them across the Rio Grande, and retrieved our renown. He would then withdraw our army to the east side of the Nueces, and settle by treaty all our disputes with that weak and distracted country upon the most liberal terms.

A history of this war does not come within the design of this work. It may be remarked, in general, that it was attended with a succession of brilliant achievements by the two distinguished generals, Taylor and Scott. The triumphant march of the latter to the Mexican capital, has scarcely a parallel in modern times. But the glory acquired by the success of our arms, was obtained at an immense sacrifice. The loss of

life on the several fields of battle, though great, was far exceeded by death from sickness. Such was the mortality among our troops, that almost whole companies were cut down by disease. The expenses of the war, though comparatively a minor consideration, were enormous, the most extravagant prices having been paid for almost every thing hired or purchased. The painful rupture of the domestic relations—the sorrows and sufferings of widowhood and orphanage—the demoralizing effects upon society—all of which are the inseparable concomitants of war, are evils of incalculably greater magnitude, which find no equivalent in any mere territorial acquisition.

On the fourth of August, 1846, the president sent to the senate a confidential message, informing that body that he had resolved on making proposals for opening a negotiation with Mexico—a letter containing such overture being already on the way to that country—and asking of congress an appropriation of money to aid him in negotiating a peace. The object of the money was the purchase of Mexican territory, if the same should be deemed expedient. A bill for appropriating two millions of dollars for this purpose, was introduced in the house of representatives. In the rapid progress of this bill towards its consummation, Mr. Wilmot, of Pennsylvania, moved a proviso, which was carried, declaring, that, as a condition to the acquisition of any territory from Mexico, by virtue of any treaty that might be negotiated, slavery should never exist in any part of the said territory. This amendment induced many of its friends to vote against the bill, which was passed, notwithstanding, by a majority of six votes, and sent to the senate on Saturday night, (August 11,) but too late to be acted upon that night.

Before the bill came up in the senate on Monday, the plan was said to have been formed of introducing the appropriation, freed from Mr. Wilmot's proviso, as an amendment to the civil appropriation bill; but the design was abandoned from an apprehension that it would cause the loss of the whole mass of appropriations for the support of the government. The bill, as it came from the house, was taken up about twenty minutes before twelve o'clock, the hour fixed for closing the legislative session. In the midst of the debate, when, as was supposed, there remained yet ten minutes to dispose of the question, the house, whose clock was ten minutes faster than that of the senate, was adjourned by the speaker; and the action of the senate was abruptly terminated. Thus was lost the proposition for money to buy territory and a peace from Mexico. From the introduction of the anti-slavery provision of this bill, is derived the familiar title of the "Wilmot proviso," which has since been so generally applied to similar provisions. It is substantially the same as the proviso in the celebrated ordinance of 1787 prohibiting slavery in the territory north-west of the Ohio.

During the interval between the adjournment of congress in August, and its reassembling in December, nothing occurred to change essentially the aspect of our relations with Mexico. The commerce of Great Britain had been materially affected by the war between the United States and Mexico. Her annual export trade to the latter country amounted to \$5,000,000. British capitalists also had \$10,000,000 invested in the mines of Mexico; and the public debt of Mexico to Great Britain was about the same amount. Deeply solicitous, therefore, for the restoration of peace between the two American republics, the British government had twice during the summer offered to mediate. The first of these offers having been made before the settlement of the Oregon controversy, and Great Britain, consequently being herself sensible that she did not occupy the position of unbiased impartiality, the offer was merely to the effect, that, if the United States were disposed to accept the mediation, it would be tendered. Subsequently, the Oregon question having been settled, an explicit offer was made, which, however, was not favorably received by our government.

The 29th congress reassembled on the 7th of December, 1846. The major part of the president's message was devoted to a detailed history of our difficulties with Mexico. He recapitulated the wrongs committed by Mexico, and the causes of the war; declared its justice on the part of the United States; our disposition to peace and harmony, and our right to annex Texas; and he repeated the charge against Mexico of having invaded our soil. As the truth of this charge depended, of course, upon the validity of the claim of Texas to all the territory east of the Rio Grande, he asserted the justice of that claim, in opposition to Messrs. Benton, Wright, Adams, and others. He founded this assertion upon the acknowledged fact, that *Louisiana*, as acquired in 1803, extended to that river, and upon the assumption of what was by them denied, that Texas extended to the western boundary of ancient Louisiana; it being beyond dispute, that Texas had never exercised any jurisdiction whatever, over the inhabitants in the valley of the Rio Grande. He also mentioned the non-acceptance of the offers of our government to negotiate peace, and the continued refusal to receive a minister from the United States.

As one of the evidences of the independence of Texas, the president referred to the treaty made with Texan authorities by Santa Anna, in 1836, when prisoner of war, in which he acknowledged the independence of Texas. The allegation that, in the condition of a prisoner, he was incapable of making a treaty binding upon his government, and the fact that the act was disavowed by that government, the president seemed to think were countervailed by the facts, that he had been defeated in his

attempt to conquer Texas; that his authority had not been revoked; and that by virtue of this treaty he had obtained his release, and hostilities had been suspended.

Santa Anna, who had been expelled from power and banished by a revolution in 1844, was an exile in Cuba when the war commenced. He had subsequently been permitted, by the authority of Mr. Polk, to pass the blockade, and return to Mexico, where, it was apprehended, he would be again found in command of the Mexican army. The president, having been censured by the opposition for this act, he offered, in justification, that there was no prospect of a pacific adjustment with the government of Paredes; that there were symptoms of a new revolution in Mexico; that there was a large party in favor of Santa Anna, who had professed to entertain views favorable to the United States, and with whom it was probable a settlement of difficulties might be effected. For these reasons he had permitted his return to Mexico.

Santa Anna arrived at the city of Mexico the 15th of September. The revolution had already taken place. The offer of the supreme executive power was at once made to him on the part of the provisional government organized by General Salas, after the fall of Paredes. Santa Anna declined the offer of the civil supremacy, but assumed the military command, declaring that he would "die fighting the perfidious enemy, or lead the Mexicans to victory." Near the close of the year, he was elected provisional president. In a correspondence with Gen. Taylor, he declared that Mexico would not listen to overtures of peace, unless the national territory should be first evacuated by our forces, and our vessels of war withdrawn from their hostile attitude.

A bill was passed, authorizing the issue of treasury notes and the negotiation of a loan or loans, to the amount of \$28,000,000. A bill was also introduced for an appropriation of \$3,000,000, for the same purpose as that of the preceding session for \$2,000,000, to which the Wilmot proviso had been attached, and which had been lost. Before the passage of the bill, Mr. Hamlin, of Ohio, moved the "Wilmot proviso" as an amendment. This proviso, after an unsuccessful motion of Mr. Douglas to amend by prohibiting slavery in acquired territory north of 36 deg. 30 min., was adopted, 110 to 89. The bill finally passed the house, 115 to 110. A similar bill was also reported in the senate, in which body the "Wilmot proviso," moved by Mr. Upham, of Vermont, was rejected, 21 to 31; and the bill was passed, (March 1,) 29 to 24. The bill was sent to the house of representatives, where it was taken up the last day of the session, (March 3,) and, on motion of Mr. Wilmot, amended in committee of the whole, by the adoption of the anti-slavery proviso, 90 to 80, and so reported to the house. But the

house disagreed to the report of the committee of the whole, 97 to 102, and the bill was finally passed by the house without the proviso, 115 to 81.

In the senate, the debate on the three million bill was one of more than ordinary interest. It was animated and protracted, and was participated in by a large number of the senators. The whole war question was reviewed. A somewhat sharp collision took place between Mr. Calhoun and Mr. Benton, who differed in relation both to the objects of the war, and the manner in which it should in future be conducted. Mr. Benton urged the plan of the administration, which contemplated a vigorous prosecution of offensive war, and an effort, after reducing Vera Cruz, to penetrate the country to the city of Mexico. Mr. Calhoun's plan, (previously suggested by Mr. Berrien,) was to take and hold the Mexican posts, assume a line of boundary on which we would be content to settle all difficulties, retire our forces to that line, and defend all within that boundary, until Mexico should be willing to make peace by conceding to those limits; her posts to be then relinquished.

Mr. Calhoun, in relation to the *objects* of the war, said they appeared to him, from an examination of the president's message, to be threefold: (1.) To repel invasion; (2.) To establish the Rio del Norte as the western boundary; (3.) To obtain payment of the indemnities due our citizens for claims against Mexico. The president had not recommended that congress should declare war; he assumed that it existed already, and called upon congress to recognize its existence. That the war existed, and that blood had been spilled on American soil, he had assumed, on the ground that the Rio del Norte was the western boundary of Texas. And congress, in declaring that war had been made by Mexico, had recognized that river as the boundary. Hence, the crossing of that river by the Mexicans was considered invasion, which was to be repelled. These two, repelling invasion, and establishing boundary, were primary objects; and, being involved in the war, the object of indemnity, though not a sufficient cause of war in itself, yet, being involved in war, might be made one of the objects for which the war should be prosecuted.

Mr. Benton defended the president from the blame of the war, and charged it upon Mr. Calhoun. The causes of the war were farther back than the march to the Rio Grande. They began with the cession of Texas to Spain in 1819, by the Florida treaty. Mr. C. was one of the majority of Mr. Monroe's cabinet, who had given it away; the blame of which had long been unjustly charged upon Mr. Adams, the negotiator of the treaty, who, it was said, desired to clip the wings of the slaveholding states. Mr. B. next adverted to the direct proofs of the sen-

ator's authorship of the war. On the first rumors of the victory of San Jacinto, he had, in the senate, proposed the immediate recognition of the independence of Texas, and her admission as a state; and urged, as a reason for the admission, that it would prevent that country from having the power to annoy the slaveholding states. This act would have plunged us into instant war with Mexico. Mr. B. referred to the correspondence of Mr. Calhoun, as secretary of state, with the British ministers, in which he had avowed the determination of the government to maintain the principles of slavery; and in carrying out that determination, he had induced Mr. Tyler to adopt the course he did, on the last day of his presidency, which measure had precipitated us into the war.

The choice which the alternative resolutions gave as to the mode of annexation, properly belonged to the new president. So strong was the expectation that this choice would be left to Mr. Polk, that the suggestion that it might be snatched out of his hands by the expiring administration, a senator (Mr. M'Duffie) had declared that they would not have the audacity to do it. But they did have the audacity. They did do it! or rather HE did it, (looking to Mr. Calhoun;) for Mr. Tyler was nothing in anything relating to the Texas question, from the time of the arrival of his secretary of state. "On Sunday, the 2d of March, the day which preceded the last day of his authority, on that day, sacred to peace, the council sat that acted on the resolutions, and in the darkness of a night howling with the storm, and battling with the elements, as if heaven warred upon the audacious act, (for well do I remember it,) the fatal messenger was sent off, who carried the selected resolution to Texas. The act was done: Texas was admitted: all the consequences of admission were incurred, and especially that which Mr. De Bocanegra (the Mexican minister) had denounced, and which our secretary had accepted—WAR." History, Mr. B. said, would write him (Mr. C.) down the author of that calamity just so certainly as it had made Lord North the cause of the war of the revolution.

Mr. Benton said: "He now sets up for the character of pacificator; with what justice, let the further fact proclaim which I now expose." He said there were, in the summer of 1844, three hundred newspapers in the pay of the department of state, which spoke the sentiments of that department, and denounced as traitors all who were for peaceable annexation by settling, at the same time, the boundary line of Texas with Mexico. Those papers acted under instruction; in proof of which, he read from a letter as follows:

"As the conductor of a public journal here, he has requested me to answer it, (your letter,) which request I comply with readily. * * * With regard to the course of your paper, you can take the tone of the

administration from the * * * * *. I think, however, and would recommend that you would confine yourself to attacks upon Benton, showing that he has allied himself with the whigs on the Texas question. Quote Jackson's letter on Texas, where he denounces all those as traitors to the country who oppose the treaty. Apply it to Benton. Proclaim that Benton, by attacking Mr. Tyler and his friends, and driving them from the party, is aiding the election of Mr. Clay; and charge him with doing this to defeat Mr. Polk, and insure himself the succession in 1848; and claim that full justice be done to the acts and motives of John Tyler by the leaders. Harp upon these strings. Do not propose the union: 'it is the business of the democrats to do this, and arrange it to our perfect satisfaction.' I quote here from our leading friend at the south. Such is the course which I recommend, and which you can pursue, or not, according to your real attachment to the administration. * * * Look out for my leader of to-morrow as an indication, and regard this letter as of the most strict and inviolate confidence of character."

Mr. Calhoun disclaimed the authorship of this letter. Mr. Benton said it was the work of one of the organs of the administration, not "John Jones," and the instruction had been followed by three hundred newspapers in the pay of the department of state.

Mr. Calhoun defended the treaty of 1819, his course upon the question of the annexation of Texas, and his opinion that no war had been necessary. It might have been avoided, even after the battles of May, by ordering a provisional army to be raised for the protection of our territory. By this means we could have secured the Rio Grande, and been saved the expense of an invading war. In regard to annexation, he said, among other things, that it had been his determination to carry it through, and he had succeeded. It was one of the proudest acts of his life, and the senator from Missouri could not deprive him of the merit of being the author of that great act. If the government had acted afterwards with common prudence, Mexico and ourselves would have been this day good friends. Mr. C. said the settlement of the Oregon question previous to the commencement of hostilities with Mexico, was one of the most fortunate events for this country that had ever occurred. Had it not been settled before the conflict took place, there would probably have been no settlement of it.

Mr. Clayton, in relation to the commencement of the war, gave the following testimony: During the debate on the Oregon question, in February, 1846 he had learned from sources upon which he could rely, that our government had ordered Gen. Taylor to break up his encampment at Corpus Christi and march to the Rio Grande. The instant he heard

it—the public having no means of knowing the fact—he was alarmed at the apprehension of a war with Mexico; and it was true, as Mr. Calhoun had said, that he had, in a confidential private conversation, in the senate chamber, given him the information, and had told him, he believed, that, unless he, (Mr. Calhoun,) or some other influential gentleman should interpose to arrest the tendency of things arising from that order, we should be plunged into a war. At the same time there was danger of a war with England, which there was great anxiety to avert. Mr. Calhoun, on receiving the information, exclaimed: “It cannot be so! It is impossible!” just as the senator had related it in this debate; and asked what could be done. Mr. Clayton said that he, as a whig, could effect nothing; and unless Mr. Calhoun and his friends, or some other division of gentlemen on the other side of the chamber, should move in the matter, the whigs would be powerless. “The honorable gentleman,” said Mr. Clayton, “was at that time, as he has properly stated, devoted to the same great object which, I confess, absorbed my own mind and the minds of those around me—the prevention of a war with England; and he declined to move, lest his usefulness on that great question should be in any degree contracted. In the course of a short time after that—”

Mr. Calhoun: “The first communication was in January, when you announced the fact; and the second conversation was in February.”

Mr. Clayton: “Yes, the senator is right. Thus, Mr. President, I felt exonerated from all responsibility in the matter. * * * While the houses of congress remained in ignorance, and those who knew could not move, the president of the United States was ordering the army upon the Rio Grande, and taking a step of which the inevitable consequence proved to be war. * * * At the time war was declared, (announced,) I denounced it as the act of the president. * * * I believe that the war was brought on by this thing of marching the army, without any necessity, from Corpus Christi to the Rio Grande; done—done, too, while congress was in session, without one word being communicated, as to the intention of the president, to either house, or to any committee or member of either house of congress. Under these circumstances, Mr. President, the responsibility of the war will probably rest on him who ought to bear it.”

The action of congress upon the subject of the Mexican war, gave rise to a question in which an important principle was involved. Is it the duty of the legislature to provide the means of prosecuting a war made unconstitutionally, or by the exercise of usurped power? It has been seen, that, disconnected from the declaration that war existed by the act of Mexico, bills to furnish supplies of men and money had received an

almost unanimous vote. The whig members, generally, while protesting that the war not only was unjust, but had been made by the executive without constitutional authority, yet voted for the means to help the executive carry his purposes into effect; justifying their votes on the general principle, that, in what manner, or for what purpose soever, a war is begun, it is the duty of congress to furnish the aid to prosecute it, and hold its projector and author responsible.

The question here naturally arises, Can the legislature while it furnishes the aid, avoid the responsibility? The legislative and executive branches of the government are designed to hold checks upon each other. Can either then be justified in refusing to interpose its constitutional power to arrest or to prevent usurpation by the other? The people who have to bear the burdens of war, have very properly intrusted the war power to their representatives. Does not then the representative violate his trust when he withholds the exercise of his power for the purposes for which it was conferred? Let the doctrine prevail universally, that, if, by his ingenuity, an executive can only commence a war without the knowledge and consent of the representatives of the people, it is their duty to sustain and aid him in the measure, and what would be the consequence? Would not the practical effect of such a doctrine be to defeat the purpose of the constitution, and convert the government into a military despotism?

Mr. Corwin, senator from Ohio, who stood almost alone in the senate on this question, vindicated his position in a speech of acknowledged ability. He said: "While the American president can command the army, thank God I can command the purse. While the president, under the penalty of death, can command your officers to proceed, I can tell them to come back for supplies, as he may. He shall have no funds from me in the prosecution of such a war. That I conceive to be the duty of a senator. I am not mistaken in that. If it is my duty to grant whatever the president demands, for what am I here? Have I no will upon the subject? Is it not placed at my discretion, understanding, and judgment? Have an American senate and house of representatives nothing to do but to obey the bidding of the president, as the mercenary army he commands is compelled to obey under penalty of death? No! your senate and house of representatives were never elected for such purpose as that. They have been modeled on the good old plan of English liberty, and are intended to represent the English house of commons, who curbed the proud power of the king in olden time, by withholding supplies if they did not approve the war. * * * While Charles could command the army, he might control the parliament; and because he would not give up that command, our Puritan ancestors laid his head upon the block. How did it fare with others?

"It was on this very proposition of controlling the executive power of England by withholding the money supplies, that the house of Orange came in; and by their accession to the throne commenced a new epoch in the history of England, distinguishing it from the old reign of the Tudors and Plantagenets and those who preceded it. Then it was that parliament specified the purpose of appropriation; and since 1688, it has been impossible for a king of England to involve the people of England in a war, which your president, under your republican institutions, and with your republican constitution, has yet managed to do. Here you stand powerless. He commands this army, and you must not withhold their supplies. He involves your country in wasteful and exterminating war against a nation with whom we have no cause of complaint; but congress may say nothing!"

In a letter to a friend, he subsequently wrote: "I differed from all the leading whigs of the senate, and saw plainly that they all were, to some extent, bound to turn, if they could, the current of public opinion against me. They all agreed with me, that the war was unjust on our part; that, if properly begun, (which none of them admitted,) we had already sufficiently chastised Mexico, and that the further prosecution of it was wanton waste of both blood and treasure; yet they would not undertake to stop it. They said the president alone was responsible. I thought we who aided him, or furnished him means, must be in the judgment of reason and conscience, equally responsible, equally guilty, with him."

In the discussion of the war question, a theory was advanced somewhat different from that of the great body of either of the political parties in congress. Mr. Rhett, of South Carolina, pronounced the doctrine, that congress has, under the constitution, the *war making power*, a fallacy. The whigs, assuming this doctrine, inferred that the president had begun the war with Mexico, and had begun it unconstitutionally; and that congress had the right to prescribe, limit, and determine the *objects* and *purposes* of the war. Mr. R. considered the principle, with all its deductions, false. He held that congress had the power to *declare* and *begin* war; but the hostilities which had preceded the declaration of war, or what was the same thing, the declaration that *war existed*, did not constitute war. To prove this, he referred to the frequent collisions on the sea between our vessels and those of England and France, and also to the Caroline affair; neither of which had been acts of war. This was evident from the fact that France had long plundered our commerce, and many bloody battles had taken place on the sea, and many ships of war had been captured, yet war did not exist. If the two countries had been in a state of war, we could have had no lawful claims for the spoliation

of our commerce. These claims could rest only on the ground that there was no war with France.

But he said his friends on the other side turned round, and pushed the war clause of the constitution far beyond its meaning, and contended that congress had not only the *war declaring*, but the *war making* power.

Mr. R. then argued, that there was a difference between *declaring* and *making* war; the one putting a country in a *state* of war; the other *conducting* it. The debates in the convention of the framers of the constitution, he said, showed that to *make* war, was understood to be to *conduct* it. The word "make," which had been inserted, was afterward struck out, and "declare" inserted, with the intention, it was presumed, of giving to congress the power only of *declaring* war, and leaving the power to *make* or *conduct* it entirely with the president. But congress had omnipotent power over the supplies, and might refuse to vote a dollar for the support of a war. Or, it might vote for supplies, with the condition, that they be used only to withdraw our troops from Mexico to this side of the Rio Grande. Although the president was intrusted with the war making power, he was not beyond responsibility. For the abuse of his power, he was liable to impeachment. Let it be admitted that the war making power was in congress. Those who so affirm speak of it as a power independent of the president, by which he was to be controlled. But was it so? He had, as parties stood, an absolute veto power, and could arrest any bill. Hence, that congress could do anything concerning the war, was a delusion. But concede to congress such power, and it would be made the commander-in-chief of the army and navy, and be invested with the treaty making power. Mr. R. laid down this proposition: "Our fathers vested the war making power in the president, the war continuing power in congress (by the supplies) and the president, and the *war ending* or *peace making* power in the president and senate: although, by its power over the supplies, congress might, incidentally, also, force the termination of the war."

Gen. Scott, in the progress of his invasion, reached the Mexican capital in August, 1847, where he concluded an armistice with Santa Anna, with a view to a negotiation of peace, our minister, Nicholas P. Trist, having the requisite power for that purpose. Failing to agree upon the terms of a treaty, and the two generals charging each other with a violation of certain articles of the armistice, hostilities were recommenced early in September, and were continued until the following winter, when peace was restored between the two countries. A treaty was concluded in February, 1848.

By the terms of this treaty, the Rio Grande was established as the

boundary, and New Mexico and Upper California were ceded to the United States; in consideration of which, the United States were to pay to Mexico fifteen millions of dollars, and to discharge the deferred claims of our citizens upon Mexico

CHAPTER LXVIII.

THE OREGON QUESTION.

SOON after the close of the session of congress in 1844, a negotiation was commenced at Washington, between the secretary of state, and the British minister, (Pakenham,) relative to the rights of their respective nations in Oregon. The administration having repeatedly expressed the determination to maintain our claim to the whole of Oregon, and to have "the whole or none," which was understood to mean, that the full extent of our claim would be enforced, if necessary, by a resort to arms, the result of the negotiation was awaited with much anxiety. More than a year passed, and the public mind was still uninformed of the state of the negotiation. It was rumored, indeed, that our government had offered to the British minister to treat on the parallel of the 49th degree as the boundary. The "Union," the official paper, contradicted the rumor, October 6, 1845, and reasserted the purpose of the administration to insist on "the whole of Oregon, or none," as "the only alternative." It said: "When that word goes forth from the constituted authorities of the nation, 'Our right to Oregon is clear and unquestionable,' who doubts that it will go the whole length and breadth of the land, and that it will be hailed as it goes, by the democratic party, with one unanimous AMEN! And what then? We answer this, then—the democracy of this country will stand to its word. It will not flinch."

The persistence in the claim to the whole territory, which, it was believed, Great Britain would not relinquish, excited, in many minds, apprehensions of war. Some of the opposition considered it as the "trump card of Mr. Polk's second candidacy." "Mr. Polk and his advisers," it was said, "to gain western votes and western influence, were perfectly willing to involve the country in war." It was predicted that he "would recommend, in his next message, taking possession of all Oregon; and England would quietly wait the action of congress. Should the recommendation be carried out, immediate war would be

inevitable. But congress would commit no such folly. They know now, which they did not last winter, that to vote for such a measure is to vote for *war*, and not a party vote to *Buncombe*.'

The declaration of the official paper, (The Union,) and other leading administration journals, in favor of taking possession of the whole territory, was enforced by quoting a sentiment ascribed to Gen. Jackson: "No compromise but at the cannon's mouth!" Although public sentiment appeared to be generally in favor of the justice of our claim to the whole territory, a large portion of the democratic press, as well as many prominent men of the administration party, were not in favor of insisting on the whole territory, at the hazard of war. Taking possession of the territory, and exercising exclusive jurisdiction over it, would have been a direct violation of the treaty which required the year's notice to be given in order to terminate the joint occupancy; and a law to carry into effect the proposed measure could scarcely have failed to provoke a war. There were those who urged the giving of the notice as a means of hastening a settlement of the controversy. Others among whom was Mr. Calhoun, were in favor of a compromise. This had been proposed by Mr. Benton, in 1828, who, in executive session introduced resolutions, declaring it "*not expedient to treat any longer with Great Britain upon the basis of a joint occupation of Oregon; but expedient to treat upon the basis of a separation of interests, and the establishment of the FORTY-NINTH DEGREE of north latitude as a permanent boundary.*"

The president's message, which had been awaited with much anxiety, did not meet the expectations of those who had formed their opinions from the declarations of the advocates of "the whole or none" policy. Mr. Polk recapitulated briefly the history of the controversy. He adverted to the negotiations of 1818, 1824, and 1826; the two first under the administration of Mr. Monroe, and the last under that of Mr. Adams; that of 1818 having resulted in the convention providing for the joint occupancy; that of 1824 having been productive of no result; and that of 1826 having resulted in the convention of 1827, by which the joint occupancy was continued for an indefinite period, and until the convention should be annulled; which could be done by either party after the expiration of the ten years of joint occupation from October, 1818, by giving the other twelve months' previous notice to that effect.

In former attempts at adjustment, the United States had offered the parallel of the forty-ninth degree, with the free navigation of the Columbia river south of that degree. Great Britain had proposed the forty-ninth degree from the Rocky mountains to its intersection with the north-easternmost branch of that river and thence down the channel of

the same to the sea, with a small detached territory north of the Columbia. But neither party had accepted the proposition of the other. In October, 1843, our minister in London was authorized to repeat the offers of 1818 and 1826; and in 1844, after the negotiation had been transferred to Washington during the administration of Mr. Tyler, the British minister proposed the same line as that before offered by that government; the navigation to be free to both parties; and a detached territory north of the river being also again offered, with the privilege, in addition, of the free use of all the ports south of latitude forty-nine. This proposition having been rejected by our government, no other was made by the British plenipotentiary.

The president said, that, although he believed the British pretensions to any portion of the Oregon territory could not be maintained upon any principle of public law recognized by nations, he had in deference to what had been done by two of his predecessors, offered to divide on the forty-ninth degree, but without conceding to Great Britain the free navigation of the Columbia. This proposition having been rejected, it had been withdrawn, and our title to the whole territory asserted. It now became the duty of congress to consider what measure to adopt for the security and protection of our citizens in that country, and the maintenance of our title; taking care not to violate the treaty of 1827, which was still in force. He recommended that the notice of the discontinuance of the joint occupancy should be given; and that the protection of our laws should be extended over our citizens in Oregon, as Great Britain had extended her laws and jurisdiction over her subjects in that territory.

Negotiation having been again abandoned, and movements being on foot in England which were regarded as preparations for war, another conflict with that power, more or less remote, began to be seriously apprehended. The president's message was soon followed by a variety of propositions in congress. In the senate, Mr. Atchison introduced resolutions suggesting the organization of a government for Oregon, and the arming and equipping of the militia of that territory. Mr. Cass offered resolutions proposing preparations for war. Mr. Hannegan introduced resolutions asserting our title to all Oregon, and declaring "the surrender of any portion of it an abandonment of the honor, character, and best interests of the American people." Mr. Allen proposed a notice to terminate the joint occupancy. Mr. Calhoun offered a series of resolutions as an amendment to Hannegan's, declaring that, however clear our title might be to the whole of that territory, there did exist, and had long existed, conflicting claims on the part of Great Britain; and that the president, in renewing the offer to compromise on the

49th degree, did *not* "abandon the honor, character, and best interests of the American people."

Mr. Calhoun considered Mr. Hannegan's resolutions as reflecting, by implication, upon the president for having offered to compromise on the line of the forty-ninth degree. He objected to the resolutions, that if they should be adopted, the question could only be settled by force of arms. He was in favor of a pacific course—of an adjustment, if possible, by negotiation.

Mr. Hannegan said he had no intention of casting a censure upon the president. The aspect of things had changed since the proposition had been made to divide at the 49th parallel. He, too, was for peace; but when peace became degrading and dishonorable, a war even of extermination would be preferable. And for one, representing the people he did, he never would vote for any treaty yielding an inch of ground below 54 degrees and 40 minutes north.

In the house, Mr. Winthrop offered resolutions, declaring it a dishonor to the age, and discreditable to both nations, to be drawn into war, and that it was due to the principles of civilization and Christianity, that a resort be had to arbitration. Mr. Douglas proposed to resolve, that the subject was not open to compromise, so as to surrender any part of the territory; and that the question of title should not be left to arbitration.

About this time there appeared a singular state of parties in congress. Mr. Calhoun occupied the same position as in 1843, when he was in favor of a "masterly inactivity;" that is, he was for leaving the territory quietly to fall into the arms of the union, as it naturally would, at no very distant day. Mr. Cass's resolutions were forthwith unanimously adopted by the senate. This was regarded as an indirect approval of the views of the president; and yet, upon authority deemed reliable, it was believed that the administration desired that the question should be settled by negotiation. Both Hannegan's and Calhoun's resolutions were considered ill-advised; virtually taking the question out of the hands of the administration, who, it was said, had managed it satisfactorily to the people. The adoption of Mr. Hannegan's resolutions would, it was apprehended, have the effect of precluding all future efforts at negotiation. Mr. Calhoun's resolutions were deemed objectionable, as they would "create an impression that a portion of the democratic party were about to give the whigs the coveted opportunity to defeat the honorable and peaceable settlement of the controversy by the present administration."

A very unexpected course was taken by a portion of the whigs. In the house, on the 2d of January, 1846, Mr. Cunningham, of Ohio, a democrat, asked leave to introduce a resolution, which, after stating in a

preamble, that the rejection, by Great Britain, of the liberal proposition of the president had terminated all negotiations on the Oregon question that her extraordinary demands had made it manifest that no satisfactory compromise could be effected; that our title to all the country between the parallels of 42 degrees, and 54 degrees and 40 minutes north latitude, and west of the Rocky Mountains, was clear and unquestionable; and that no portion of it could be honorably surrendered, declared it to be "the imperative duty of congress to adopt immediately such measures as would fully protect our citizens who now do, or may hereafter inhabit that country, and effectually maintain our just title to the whole of the country of the Oregon."

Objection having been made to the introduction of the resolution, the question was taken on a motion to suspend the rules for the purpose of the immediate reception of the resolution, when, the first name called being that of Mr. Adams, a sensation was produced in the house by his voting *aye*. Other whigs also voted in the affirmative. The motion to suspend, however, was lost.

Mr. Douglas had previously reported a bill for extending the laws of the United States over the territory of Oregon; and for the protection of its inhabitants; which having been made the special order for a future day, Mr. Haralson, from the committee on military affairs, reported a bill for the organization of two regiments of riflemen, and moved that it be made a special order, assigning as a reason, that it had immediate connection with the object of the Oregon territorial bill of Mr. Douglas. Upon this motion a debate arose, in which Mr. Adams took a prominent part, and excited much surprise and a deep sensation.

Mr. Adams was against the bill as unnecessary, both because a similar bill for one regiment was in progress in the senate, and because he saw "*no danger of war* at this time." If any danger of war was apprehended, the first measure to be taken ought to be to give notice to Great Britain that we meant to terminate the joint occupancy. Yet it was not a joint occupancy; and he had been surprised at the language of some gentlemen on the subject. The treaty acknowledged no occupation of the territory by either party; it was a mere commercial convention for free navigation, but did not admit the occupation, by either party, of an inch of territory by the other. Twelve months after such notice should have been given, the right would accrue to us to occupy any part of the territory. To the bill which had passed at the last session, he had moved a section, requiring such notice to be given; but the bill had been lost in the senate. He had then declared, and he now declared himself ready to give such notice. He hoped it would be given, and followed by a *real occupation of the whole territory*. [This declara-

tion caused great sensation, and some demonstrations of applause, which was promptly arrested by the speaker.] Mr. Douglas having said there appeared to be a game playing there, Mr. Adams said that remark was incomprehensible to him; but he confessed he was surprised to hear that the committee on foreign affairs would not report such notice to the house.

Mr. Ingersoll said he knew of no member of the committee who had said so. Mr. Douglas said he had said so, because he had heard that such was their determination.

Mr. Adams said, while they were talking about regiments of riflemen, stockade forts, &c., Great Britain was arming her steam-vessels, equipping her frigates and line-of-battle ships, and sending over her troops to be ready. Said he: "*I would press a resolution giving the notice this day, if I hoped that a majority of the house could be obtained to effect that measure.*" He said, while the convention remained in force, he would vote for no increase of the army or navy. He hoped, if the bill should be made the order of the day for Tuesday, that it would be arranged by gentlemen who managed the business of the house, that the question of giving notice should come up on the same day, and be first taken up. It was mere wasting time, and whistling to the wind, to talk about military force, until our conscience was clear from the obligation of the convention. And he said it did not follow that, if notice was given, there must be war, nor even that we should then take possession. It would only be saying to Great Britain: After negotiating twenty years about this matter, we do not choose to negotiate any longer. We shall take possession of what is our own, and then, if to settle the question of what is our own, you wish to negotiate, we will negotiate as long as you please. *We may negotiate after we take possession.* (Much laughter.) This is the military way of doing business. (Increased merriment.)

The contrast between the indifference of the Calhoun party in congress on the Oregon question, and their zeal the year before for the acquisition of Texas, even at the cost of war, did not escape the notice of Mr. Adams. He repeated that the notice did not necessarily draw after it a war; and if Great Britain chose to take it as an act of hostility on our part, and commence a war, he hoped there might be but one party. The war would then have less of those extraordinary terrors which his friend from South Carolina, (Mr. Holmes,) had just now discovered, notwithstanding the extreme military propensities which he manifested on that floor last year. The gentleman was a most valiant man when Texas was in question. "But," said Mr. A., "I shall draw no comparisons as to what we witnessed then, and what we see now; but this I

will say, that I hope if war shall come—which God forbid, and of which I entertain no fears at all—the whole country will have but one heart, and but one united hand. And of this I am very sure, that, in that case, Great Britain will no longer occupy Oregon, nor any thing else north of Canada line. [Great sensation, and incipient indications of applause.] But if you will agree to give notice, strong as is my horror of war and of all military establishments, if there should then be the breath of life in me, I hope I shall be willing to go as far as any in making any sacrifice to render that war successful and glorious.”

Mr. Ingersoll, the next day, (January 3,) made some explanation in regard to the giving notice. It had been proposed at the last session; and the resolution had been referred to the committee on foreign affairs, who had reported against the proposition; but it should be borne in mind that the then president was against it, while the present incumbent had expressed a desire that the notice should be given. Mr. I. followed in the wake of Mr. Adams. He concurred in the remark made by the latter, that there was no such thing as a joint occupation by the treaty. The term “joint occupation” was not to be found in the convention of 1818 at all. It had, in 1828, in a protocol of Mr. Gallatin with the British minister, stolen into the negotiation. The admission of these words was a monstrous concession on our part to the claims of the British government.

Mr. Preston King, of New York, said the chairman of the committee on territories had informed the house, that a game had been playing there; and Mr. K. read from the London Times an article predicting threatening language from the president, the reëpearance of Mr. Calhoun in the senate, a check to be then given in that body to the war spirit, and the administration thus saved from the consequences of its own violence.

Mr. Douglas explained. By the “game playing in the house,” he had not had reference to any thing in an English paper; but to the disposition manifested to prevent a speedy action on the Oregon bill, by getting up feelings of jealousy between the standing committees as to their respective jurisdictions, in order to procrastinate action.

Mr. King resumed. The administration had erred in offering to settle by the 49th parallel. It had been said that the administration must have felt sure that the offer would have been rejected, or it would not have been made. The subject had been in the charge of diplomacy long enough; and he now rejoiced to learn from the message that negotiation was at an end.

Mr. Winthrop dissented from the views of those who had preceded him.

The gentlemen from Massachusetts and Pennsylvania had said that they had, at a former session, voted for giving the notice for terminating the convention. He, on the other hand, had voted against it, and would again. He had offered, a few days ago, a series of resolutions, which might not soon emerge from the pile of matter under which they were buried on the table. Stormy debates upon peace and war had an injurious influence; and his purpose in introducing his resolutions was to express some plain and precise opinions entertained by himself and many others in regard to the present critical state of our foreign relations. All agreed that we had rights in Oregon; and that, if these rights were to be maintained by war, it must be done with all the vigor we possessed. He spurned the notion that patriotism could only be manifested by plunging the nation into war, or that the love of one's country could only be measured by his hatred to any other country.

Mr. W. did not expect to escape reproach from his opponents for the expression of his opinions; and there were those of his own party from whom he might expect them. It had been said that it was not good party policy to avow such doctrines; that it gave the friends of the administration occasion to brand the whigs as a peace party, and that the only course for the minority to pursue, was to bring about their readiness for war with those that bragged loudest. Now, if an opponent of the administration were willing to make a mere party instrument of this Oregon negotiation, he might retort upon the majority by asking, Where was the heroic determination of the executive to vindicate our title to "*the whole of Oregon*—the whole or none"—when a deliberate offer of more than five degrees of latitude had recently been made to Great Britain? and that, too, when the president and secretary of state told us that our right to the whole was clear and unquestionable! For himself, he repudiated all idea of party obligations or party views in connection with this question. He scorned the suggestion that the peace of his country was to be regarded as a mere pawn on the political chess-board, to be periled for mere party triumph. There had been enough of the mischief of mingling such questions with party politics. It had been openly avowed elsewhere, and repeated in this house yesterday by the member from Illinois, (Mr. Douglas,) that Oregon and Texas had been born and cradled together in the Baltimore convention; that they were the twin offspring of that political conclave; and in that avowal might be found the whole explanation of the difficulties and dangers with which the question was now attended.

Mr. W. said he honored the administration for whatever spirit of conciliation, compromise and peace they had manifested. If for any

thing he would reproach or taunt them, it was for their abandonment of that spirit. If any one desired to brand him, on this account, as a member of a peace party, he bared his bosom to receive the brand, and was willing to take its first and deepest impression, while the iron was sharpest and hottest. If there was any shame in such a brand, he gloried in his shame. But who was willing to bear the brand of being a member of the war party? Who would submit to have that Cain-mark stamped upon his brow? He thanked Heaven that all men, on all sides, had thus far refused to wear it. All had avowed themselves in favor of peace; "only it must be an honorable peace." This was the stereotyped phrase of the day. The question was, what was an honorable peace? Peace was in its nature honorable; war, in its proper character, was disgraceful. Was there any thing in the Oregon controversy, as it then stood, which furnished an exception to these general principles? any thing which would render a pacific policy discreditable, or which would invest war with any degree of true honor? He denied it altogether.

Mr. W. then proceeded to the defense of the propositions of his resolutions. In the course of his speech, he commented severely on a remark by Mr. King, that the administration, in making the offer of the 49th parallel, did it with the understanding that it would be rejected. [Mr. K. said he heard it, and believed it to be so.] Said Mr. Winthrop: "There is an admission to which I wish to call the solemn attention of the house and of the country. I trust in Heaven that the honorable member is mistaken. I trust, for the honor of the country, that the chairman of the committee on foreign affairs will obtain official authority to contradict this statement." [Mr. Ingersoll said he would not wait for authority. He denied it unqualifiedly. Mr. King said his authority was public rumor, and he believed it to be correct.] Mr. Winthrop: "It can not be correct. What sort of an administration are you supporting if you can believe them to have been guilty of such gross duplicity in the face of the world, in order to furnish themselves with a pretext for war? I would not have heard their enemy suggest such an idea."

Mr. W. intimated that there was yet hope of being able to settle the question by negotiation. But if no compromise which the United States ought to accept can be effected, was there then no resort but war? Yes; there was still another easy and obvious mode of averting that fearful alternative. He meant *arbitration*; a resort so reasonable, so just, so conformable to the principle which governed us in our daily domestic affairs, so conformable to the spirit of civilization and Christianity, that no man would venture to say any thing against it in the

abstract. But it was said we could find no impartial arbiter. So then, "our title," said Mr. W., "is so clear and indisputable, that we can find nobody in the wide world impartial enough to give it a fair consideration!" He said he would vote for any measures necessary for the defense of the country. But he insisted that the peace of the country and the honor of the country were still compatible with each other. There had been omens of peace in the other end of the capitol, if none in this. But if war should come, the administration must take the responsibility, for all its guilt and all its disgrace.

The debate, in which several other gentlemen participated, took place on Saturday, January 3, 1846. On Monday, the 5th, Mr. Ingersoll, from the committee on foreign relations, reported a joint resolution, requiring the president forthwith to cause notice to be given to the government of Great Britain, *that the convention of 1827 should be annulled and abrogated in twelve months.*

Mr. Garret Davis, of Kentucky, in behalf of the minority of the committee, made a report, in which the question was raised, whether the house, which is, by the constitution, invested with no executive functions, could be properly united with the president and senate, in giving this notice. If the notice *could* be given *without* the concurrence of the house, would not such an interference be beyond the scope of its powers? The house had had no agency in the formation of this convention with England: it was a treaty made properly, and that could only be made by the president and the senate. The treaty making power might at any time, with the consent of Great Britain, modify it, as had once been done; and the same power could put an end to it. Without expressing an opinion whether the notice ought or ought not to be given, and as the solution of that question was constitutionally for the president, or for him acting with the senate, the house ought to be content to leave him to his proper judgment, discretion, and responsibility; and they conclude with a resolution to that effect.

On the motion of Mr. Ingersoll to make his resolution the special order for the first Monday of February,

Mr. Giddings, of Ohio, who was regarded as the leader of the abolition party in the house, quite as unexpectedly as Mr. Adams had done, declared himself in favor of terminating the convention. He had, in a former congress, been opposed to the proposition; but the aspect of things had changed. The slave power of the union had gained largely by the annexation of Texas. The compromises of the constitution had been virtually done away; and the principle of territorial extension had been grafted on the government, and, by consequence, forced upon the northern states, in self-defense. He differed in opinion from the repre-

representatives from Massachusetts. He believed if we took the whole of Oregon, we should have war. He preferred war, with all its miseries, to enduring the supremacy of the slavocratic oligarchy. Texas had been admitted, and its weight must be counterbalanced. But the northern democracy would now find their southern democratic brethren deserting them. Their southern friends in every part of this hall, were imploring whigs and democrats to save them from this dread policy, which strikes a death blow to the value of slave property. A master spirit of the south (Calhoun) had left his retirement, and taken his position in the other end of the capitol, with the avowed purpose of defeating the very policy (territorial extension) which occupied his whole intellect and desires only a year ago. Mr. G. assured northern democrats that if the measure (giving notice) should be carried out by congress, Mr. Polk would save the south from their apprehensions of war; he would surrender all of Oregon north of the 49th degree, rather than hazard the dangers of a war; and thus the north would be betrayed.

Mr. M'Dowell, of Ohio, hoped not a man who had advocated the annexation of Texas, would now falter in the settlement of the Oregon controversy. Both measures had been avowed by the Baltimore convention, and had equal claims to support. The negotiation was now at an end; and he trusted that not a representative from the Mississippi valley ever would consent that the offer of the 49th degree should be accepted and ratified by the government. In the presence of the house, and of the nation, and before God, the king of nations, he solemnly protested against any more offers to buy a peace. Negotiation! He would rather cover the soil of Oregon with the corpses of our countrymen, and wet it with their life-blood, than surrender an inch of it to Great Britain, and thereby seal the national disgrace.

Mr. Rhett, of South Carolina, was opposed to giving notice. To carry into effect our laws over the whole territory after notice given, it would be necessary forcibly to eject the British from some thirty forts; and war would probably result. The giving of the notice would throw upon us the onus of action, and the necessity of maintaining our rights by force. He did not believe Oregon would be gained by war; it would rather be the means of our losing it. The prolongation of the convention would do us no injury. We should gain by time. To put an end to it, would bring us into collision with the Hudson Bay company and Great Britain. He was not afraid of a war with that power; but he was opposed to any war which bore a semblance of a war of conquest. He did not think the proposed action was demanded by national honor. It was not honor to take fire at negotiation, and jeopard the national peace, prosperity, and happiness for shadows.

Besides Mr. Adams and Mr. Giddings, several whigs took an equally decided stand in favor of the resolution of Mr. Ingersoll for terminating the convention of 1827. As evidence of the great weight attached to the judgment and opinions of Mr. Adams, it was stated that, immediately after the publication of his speech, "the apprehensions of a war were renewed; stocks fell instantly; markets were agitated; and the week closed under gloomy forebodings. The assurances of the venerable gentleman, that he apprehended no war, seemed to weigh very little when placed in the scale to balance the tenor of the course he chalked out for the country." It was believed also that his speech was instrumental in hastening the report of the committee on foreign relations.

The message of the president, and the language of the official paper, produced no small excitement in England. The British press spoke out with spirit for maintaining their claims and the honor of the nation. The mollification, by the Union, of its "whole or none," "war or no war" article, the general tone of the American press, and a speech of Daniel Webster at Boston, denouncing the idea of a war with England, served essentially to abate the excitement abroad.

In this country, apprehensions were considerably allayed by the postponement, in the senate, on the 12th of January, of the consideration of the "notice" resolutions, by a vote of 32 to 18, until the 10th of February. Also resolutions by Mr. Allen against the non-interference of European powers with the political affairs of the independent nations of America; or against establishing new colonies upon this continent, were laid upon the table, 28 to 23; the Calhoun senators voting with the whigs.

On the 14th of January, Mr. Crittenden, of the senate, offered resolutions for giving the notice, but with a provision allowing an opportunity for an amicable settlement; and the notice not to be given until after the close of the present session of congress. The resolutions were made the order of the day for the 10th of February.

The house also manifested a disposition to deliberate upon the subject rather leisurely. Numerous resolutions were successively offered, and the debate was continued until the 9th of February, when it was closed by the adoption of resolutions offered by Mr. Boyd, of Kentucky, requiring the president to give the twelve months' notice, and permitting the parties to renew or pursue negotiations for an amicable settlement of the controversy. The vote on the resolutions was, ayes 163; noes, 54. Of the 74 whig votes, 37 were for, and 37 against the notice. Of the democrats, 121 voted for, and 16 against. Of the native Americans, 5 voted for, and 1 against the notice.

Apprehensions of war were now suddenly revived, by the publica

tion of the correspondence between the two governments relating to the Oregon question, from which it appeared, that two different propositions had been made, on the part of Great Britain, for arbitration, both of which had been rejected. The objection to the first was, that it referred to a friendly power or state merely the partition or equitable division of the territory between the parties; thus assuming that the title of Great Britain to a portion was valid. The second proposition referred the question of the title of either power to the whole territory, subject to the condition, that, if the arbitrator should not deem the title to the whole by either party complete, there should be assigned to each a portion corresponding to the claim of each. This was rejected on the ground that the condition might be construed into an intimation, if not a direct invitation, to the arbitrator to divide the territory between the parties.

On the 10th of February, the debate commenced on the several resolutions which had been made the order of the day. This debate, in which the most able and distinguished senators participated, continued more than two months. The 16th of April had been fixed on for taking the question. As the question of peace or war was considered as depending, in a great measure, on the adoption or rejection of a resolution for giving notice of a termination of the convention of 1827, a deep and pervading interest was felt in the final action of the senate. The gallery and the avenues to it, were pre-occupied by a dense crowd for hours before the meeting of the senate.

The great point of difference between the particular friends of the administration and its opponents on the subject of giving notice, was, that the former wished congress to back up the president with an unqualified resolution requiring the notice to be given; whereas the latter wished the matter still left open for amicable adjustment, and the responsibility thrown upon the president of choosing or refusing to negotiate; in other words, of determining the question of "peace or war."

Before taking the question, Mr. Crittenden addressed the senate for about two hours, in favor of resolutions in the qualified form, as most likely to preserve peace. He was for leaving with the president the responsibility as well as the power which the constitution reposes in the executive for the management of negotiation. He believed the question would be settled amicably. The president desired the notice to aid him. It had been asked for as a means of peace, and he (Mr. C.) regarded it as such. It would be a disgrace to the age if the question should not be amicably settled. Before God and man, they would be responsible who acted upon the negotiation. Let the president, who had the power in his hands, look to the matter. His would be the responsibility. Le

him act as a president of the United States—as a just man. If he plunged the country needlessly into a war, his would be a terrible responsibility.

Mr. Allen then withdrew his own resolution; and, on his motion, the senate took up the resolutions passed by the house. For these Mr. Johnson, of Maryland, then moved as a substitute, the resolutions of Mr. Crittenden, somewhat modified, which were adopted in committee of the whole, 30 to 24, and reported to the senate. Mr. Allen denounced the proceedings most severely, and accused the senate of dodging behind the president, and shrinking from responsibility. He pronounced the resolutions tame, timid, as manacled the president, and as producing a division between the two houses, and between them and the president. The president had told them he had done with negotiation, and wished the law making power to take up the subject; but they were leaving all to his discretion. If he (Mr. A.) stood alone, he would vote against the resolution.

Mr. Crittenden rejoined in vindication of the senate, and administered a sharp rebuke to the senator for his imputations. "Upon what meat does our Cæsar feed that he has grown so great," thus to lecture senators? The senator does not know the senate; nor does he know himself, the wisest lesson any man can learn.

Mr. Allen replied with vehemence; and the discussion descending to personalities, the vice-president admonished the combatants. The question was then taken on the third reading of the resolutions, and decided in the affirmative; ayes, 40; noes, 14.

It remained for the house to concur in the resolution, as amended in the senate. Concurrence was refused; and an agreement was finally effected by a committee of conference. The resolutions as reported by this committee, passed by a vote of 142 to 46. All who voted in the negative are supposed to have been democrats.

To show the difference between the resolutions as finally adopted, and what they were as they first passed the house, the material parts of them are subjoined. The resolution of Mr. Boyd, adopted by the house,

"Resolved, That the President of the United States cause notice to be given to the government of Great Britain, that the convention (describing the same) shall be annulled and abrogated twelve months after giving said notice.

"And be it further enacted, That nothing herein contained is intended to interfere with the right and discretion of the proper authorities of the two contracting parties to renew or pursue negotiations for an amicable settlement of the controversy respecting the Oregon territory."

The resolutions adopted finally, after reciting the general provisions of the conventions of 1818 and 1827, proceed to say:

"With a view, therefore, that steps be taken for the abrogation of the said convention of the 6th of August, 1827, in the mode prescribed in its 2d article, and that the attention of the governments of both countries may be more earnestly directed to the adoption of all proper measures for the speedy and amicable adjustment of the difficulties and disputes in relation to said territory :

"Resolved, &c., That the president of the United States be, and he is hereby authorized; at his discretion, to give to the British government the notice required by the said second article for the abrogation of the convention of the 6th of August, 1827."

A large portion of the debate on the Oregon question in the senate, during this session, was a discussion of the question of title and boundary. The title of the United States up to the line of 54° 40' was supported by Messrs. Dix, Cass, Dickinson, and others; by the first of these gentlemen very elaborately and ably. Mr. Benton took strong ground against them, contending for 49° as the true and proper line, up to which we had a right, but not beyond. He affirmed "that every American statesman of twenty and forty years ago—Mr. Jefferson and Mr. Madison in 1807; Mr. Monroe and his cabinet in 1823, offered to divide by 49°, leaving Frazer's river wholly to the British, and that because it belonged to them." He said "the people had been misled—grossly and widely misled—ignorantly at first, as we were bound to believe; designedly now, as we painfully see. The fifty-four-forty line, never existed. The treaty proves it; yet its existence is still affirmed, to mislead the uninformed, and to save the misleaders from the mortification of exposure."

[Mr. Benton, it is believed, had once expressed the opinion, that the just claims of the United States extended beyond the 49th degree of north latitude.]

The resolutions authorizing the notice were approved by the president on the 27th of April. The next day the notice was executed, and, without delay, transmitted to Mr. M'Lane, at London, to be delivered in person to Her Majesty Victoria.

In the midst of apprehension and speculation on the question of peace or war, the public suspense was suddenly relieved by the announcement of PEACE! From documents subsequently published, it appeared, that, on the 6th of June, a conference took place between Mr. Buchanan and Mr. Pakenham, which resulted in a treaty concluded the 15th of June. The proposition, on the part of the British government, for the adjustment of the question, was communicated by the president to the senate for its advice, in advance of his own action upon it. His own opinions, he said, remained as they had been expressed in his last annual message

A motive to this previous consultation with the senate, probably was a desire to throw upon the senate, as far as possible, the responsibility of accepting a proposition for the surrender of territory south of 54 deg. 40 min., against which he and his friends had so strongly committed themselves.

The dividing line established by the treaty was on the 49th degree of latitude, from the Stony Mountains west to the middle of the channel which separates Vancouver's island from the continent; thence southerly through the middle of the channel and of Fuca's straits to the Pacific ocean: the whole of the channel and straits south of that parallel to be free and open to both parties; also the great northern branch of the Columbia river, from that parallel to the main stream, and the said stream or river down to the ocean, were to be open to the Hudson's Bay company and to the subjects of Great Britain trading with the same. The treaty was sent to England for ratification by that government, where it was ratified, and ratifications were exchanged; and was proclaimed by the president on the 5th of August, 1846.

Notwithstanding the spirit with which a large portion of the friends of the administration contended for "the whole or none" of Oregon, it is believed that few, upon calm consideration, indulged regrets that Mr. Polk had yielded to what was supposed to be the prevailing sentiment of the nation at large, and had given his official sanction to the treaty. Much credit was awarded to Messrs. Webster, Calhoun, and Benton for their instrumentality in bringing about the adjustment. The emphatic announcement of Mr. Webster, that the United States would never consent to take less than the line of the 49th degree, and that upon this point men of all parties in this country were agreed, probably aided much in drawing from the British ministry the proposition for settlement. The early and vigorous opposition of Mr. Calhoun to the course of the radicals of his own party in the senate, was not without effect. Then the great speech of Mr. Benton, at that particular juncture, when both governments paused to consider what course next to pursue, removing all ground for persisting in the refusal to accept the line of the 49th degree, doubtless contributed much to induce Mr. Polk to submit the proposition to the senate. Thus, to the combined efforts of these three distinguished senators is the country indebted, in no small degree, for averting the calamity of a sanguinary war, which, there is little reason to doubt, would have been the consequence of an adherence, on the part of the executive, to his original purpose.

The reasons upon which Mr. Benton based his concession, to Great Britain, of the territory beyond the 49th degree, will be found in the following extract from a speech delivered by him in the senate, January 12 1843:

"Mr. Benton said he would not restate the American title to that country: it had been well done, by others who had preceded him in debate. We would only give a little more development to two points—the treaties of 1803 and 1819; the former with France, by which we acquired Louisiana; the latter with Spain, by which we acquired all her rights on the north-west coast of America, north of 42 degrees. By the first of these treaties, we became a party to the tenth article of the treaty of Utrecht, between France and England; the treaty of peace of 1714, which terminated the wars of Queen Anne and Louis XIV, and settled all their differences of every kind in Europe and America, and undertook to prevent the recurrence of future differences between them. The tenth article of this treaty applied to their settlements and territories in North America, and directed commissaries to be appointed to mark and define their possessions. These commissaries did their work. They drew a line from ocean to ocean, to separate the French and British dominions, and to prevent future encroachment and collisions. This line began on the coast of Labrador, and followed a course slightly south of west to the centre of North America, leaving the British settlements of Hudson Bay to the north, and the French Canadian possessions to the south. This line took for a landmark the Lake of the Woods, which was then believed to be due east from the head of the Mississippi; and from that point took the *forty-ninth parallel of latitude indefinitely to the west*. The language of the line is '*indefinitely*;' and this established the northern boundary of Louisiana, and erected a wall beyond which future French settlements could not cross to the north, nor British to the south.

"As purchasers of Louisiana, the treaty of 1803 *made us party to the tenth article of the treaty of Utrecht*, and made the *forty-ninth parallel the same to us and the British which it had been to the French and the British*; it became a wall which neither could pass, so far as it depended upon that line."

CHAPTER LXIX.

THE TARIFF ACT OF 1846.—THE WAREHOUSE SYSTEM.—ESTABLISHMENT OF THE SUB-TREASURY.

FOR months before the meeting of congress in December, 1845, indications were given of an attempt against the tariff of 1842, and the protective system. The president and the secretary of the treasury,

(Mr. Walker,) were both opposed to those two features of that tariff so obnoxious to anti-protectionists generally—the minimum principle and specific duties; and the gains known to have accrued to the anti-tariff party, had given protectionists strong premonitions of a successful attack upon their favorite policy.

As had been intimated, the message, in discussing the tariff question, made a violent assault upon the act of 1842. “By the introduction of minimums, or assumed false values, and by the imposition of specific duties, the injustice and inequality of that act, in its practical operations on different classes and pursuits, are seen and felt.” Many of the duties, the president said, under the operation of these principles, ranged from one per cent. to more than two hundred per cent. It was so framed as to throw much the greatest burden on labor and the poorer classes. Articles of prime necessity, or of coarse quality and low price, used by the masses of the people, were subjected to heavy duties, while articles of fine quality and high prices, used by the rich, were lightly taxed. He therefore recommended the abolition of specific duties and minimums, and the adoption of *ad valorem* duties, with a general modification and reduction of the rates of duty. Congress might discriminate in arranging the duties on different articles; but the discrimination should be within the revenue standard, and be made with the view to raise money for the support of government. His views of a revenue standard were thus given :

“It becomes important to understand distinctly what is meant by a revenue standard, the maximum of which should not be exceeded in the rates of duty imposed. It is conceded, and experience proves, that duties may be laid so high as to diminish or prohibit altogether, the importation of any given article, and thereby lessen or destroy the revenue which, at lower rates, would be derived from the importation. Such duties exceed the revenue rates, and are not imposed to raise money for the support of government. If congress levy a duty for revenue of one per cent. on a given article, it will produce a given amount of money to the treasury, and will incidentally and necessarily afford protection or advantage, to the amount of one per cent. to the home manufacturer of a similar or like article over the importer. If the duty be raised to ten per cent., it will produce a greater amount of money, and afford greater protection. If it be still raised to twenty, twenty-five, or thirty per cent., and if, as it is raised, the revenue derived from it is found to be increased, the protection or advantage will also be increased; but if it be raised to thirty-one per cent., and it is found that the revenue produced at that rate is less than at thirty per cent., it ceases to be a revenue duty. The precise point in the ascending scale of duties at

which it is ascertained from experience that the revenue is greatest, is the maximum rate of duty which can be laid for the *bona fide* purpose of collecting money for the support of government. To raise the duties higher than that point, and thereby diminish the amount collected, is to levy them for protection merely, and not for revenue. As long, then, as congress may gradually increase the rate of duty on a given article, and the revenue is increased by such increase of duty, they are within the revenue standard. When they go beyond that point, and, as they increase the duties, the revenue is diminished or destroyed, the act ceases to have for its object the raising of money to support government, but it is for protection merely.

"It does not follow that congress should levy the highest duty on all articles of import which they will bear within the revenue standard; for such rates would probably produce a much larger amount than the economical administration of the government would require. Nor does it follow that the duties on articles should be at the same or a horizontal rate. Some articles will bear a much higher revenue duty than others."

The message was followed up and sustained by the report of the secretary of the treasury. The secretary said the revenue for the first quarter of the year was about two millions less than for the same quarter last year. This decrease he ascribed to the diminution of the importation of some highly protected articles by the substitution of rival domestic products. The average of duties upon dutiable imports had been, during the nine remaining months of the first year, under the tariff of 1842, about 37 per cent.; for the year ending June, 1844, 33 per cent.; for 1845, about 30 per cent.; the diminished per centage being caused by the increased importation of some goods paying lighter duties, and the decreased importation of others bearing the higher duties. The revenue from *ad valorem* duties the last year had exceeded that from specific duties, although the average of the former was only about 23 per cent., and the average of the latter, about 41—presenting another strong proof that lower duties increase the revenue.

The secretary had adopted, in suggesting improvements in the revenue laws, the following principles: 1st. No more should be collected than was necessary for the actual wants of the government. 2d. No duty should be imposed on any article above the lowest rate which would yield the most revenue. 3d. Below such rate, discrimination might be made, descending in the scale of duties; or, for imperative reasons, the article might be made free from duty. 4th. The maximum revenue duty should be imposed on luxuries. 5th. Minimums and specific duties should be abolished, and *ad valorem* duties substituted—guard-

ing against fraudulent invoices and undervaluation, and assessing the duty upon the actual market value. 6th. The duties should be so imposed as to operate as equally as possible throughout the union, and upon the different classes.

A horizontal scale of duties—that is, a uniform rate upon all articles—was not recommended, because that would be a refusal to discriminate for revenue, and might sink the revenue below the wants of the government. Some articles would yield the largest revenue at rates which would be wholly or partially prohibitory in other cases. Luxuries, as a general rule, would bear the highest revenue duties; but even some very costly luxuries, easily smuggled, would bear but a light duty for revenue; whilst other articles of great bulk and weight, would bear a higher duty for revenue. There must be discrimination for revenue, or the burthen of taxation must be augmented, in order to bring the same amount of money into the treasury. Hence it was difficult, he said, to adopt any arbitrary maximum which would answer in all cases.

The report of the secretary was immediately subjected to a severe criticism, both in and out of congress. Mr. Andrew Stewart, of Pennsylvania, on the question of referring that part of the message relating to the tariff, moved to instruct the committee to report, “as the sense of this house, that the tariff of 1842 ought not to be disturbed.”

The secretary had pronounced the tariff of 1842 unconstitutional, because it exceeded the revenue limit. A tariff bill, he said, was a bill for raising revenue, which was the *only proper object of such a bill*. “Whenever it departed from that object, in whole or in part, either by total or partial prohibition, it violated the purpose of the granted power.” Mr. Stewart referred to the messages of Washington, Jefferson, Madison, and Monroe, all of whom had emphatically recommended the *protection of domestic manufactures*. He also read the following lucid exposition from the second annual message of president Jackson :

“The power to impose duties upon imports originally belonged to the several states. The right to adjust these duties, with a view to the encouragement of domestic industry, is so completely identical with that power, that it is difficult to suppose the existence of the one without the other. The states have delegated their whole authority over imports to the general government, without limitation or restriction, saving the very inconsiderable reservation relating to the inspection laws. This authority having thus entirely passed from the states, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the general government, it must be extinct. Our political system would thus present the anomaly

of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case; this indispensable power, thus surrendered by the states, must be within the scope of authority on the subject expressly delegated to congress. In this conclusion I am confirmed, as well by the opinions of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended this right under the constitution, as by the uniform practice of congress, the continued acquiescence of the states, and the general understanding of the people."

In answer to the question of Cave Johnson, of Tennessee, Who pays the duties when the government protects manufactures? Mr. Stewart said, the gentleman and his friends held that the consumer always paid the duty; and the secretary had told the nation that the poor man was taxed eighty-two per cent. on cotton goods over the rich man. This unhappy "poor man" was taxed one hundred and fifty per cent. on his cotton shirt, because there was a specific duty on imported cotton goods of nine cents a yard! This specific duty of nine cents was just one hundred and fifty per cent. on six cents, the price paid by the poor man for his cotton. So the practical effect of this horrid tax was, that the poor man got a good shirt at sixpence a yard. Those abominable minimums, so obnoxious to the secretary, had been introduced by John C. Calhoun and William Lowndes, since which, the price of the poor man's cloth had fallen from thirty-six to six cents a yard. On that thirty-six cents, the tariff laid a duty of nine cents, which was then but twenty-five per cent. *ad valorem*; now it was one hundred and fifty per cent.; and why? because the price had been reduced from thirty-six to six cents a yard! Let the manufacturer run up the price to thirty-six cents again, and the duty of nine cents a yard would fall to twenty-five per cent.; and, according to the secretary, the oppression would all be over: these friends of the poor man would be perfectly satisfied.

Mr. Johnson asked again, if the tariff brought down prices, why did the manufacturer want it? and what was it that reduced the price of other goods in proportion?

Mr. Stewart replied that such was not the fact. Silks, velvets, and other goods not manufactured here, had not declined in the same proportion; nor had wages or agricultural produce; because the protective tariff had increased the supply of domestic goods by increasing competition, and had sustained wages and agricultural produce by creating an increased demand for both. If the gentleman could comprehend that demand and supply regulate price, it would be all plain to him.

Mr. S. resumed his illustrations. No *ad valorem* duties were im

posed by the tariff of 1842 above 50 per cent.; how then did the president in his message get duties of 200 per cent.? Just by converting the specific duties into *ad valorem*. For if the duty is 200 per cent., the price must be one-half only of the duty. Thus, glass is said to pay the enormous duty of 200 per cent.; and why? because the duty was \$4 per box, and the price \$2. But if glass should fall to \$1 per box, the duty would be 400 per cent.! Nails in 1816 were 16 cents a pound; on which a duty was laid of four cents a pound, which was 25 per cent. on the price; but according to the secretary's report, the duty was now 100 per cent., because the price had fallen to four cents a pound! It was upon such a principle as this that the secretary based his statement, that the people paid a tax of *eighty-four millions*, of which but twenty-seven went to the government, and fifty-four to the manufacturers. The secretary referred to a list of sixty or seventy articles paying specific duties, which, by being converted into *ad valorem*, amounted to more than 100 per cent. And what did this prove? Simply that the prices of these articles had greatly fallen, as in the case of cottons. The explanation of all this, said Mr. S., was plain and easy. Competition, machinery, skill, and industry, had increased the supply; and the increased supply had reduced the prices of glass, cotton, &c., while it had rendered the whole country prosperous by an increased demand for all the productions of the farmers.

Mr. S. commented upon the president's definition of a revenue standard of duty, and his rule for laying duties. According to that rule, when the American manufacturer had succeeded in supplying our own market, and begun to thrive, that would prove that the duty was no longer a revenue duty, but had become a *protective* duty, and must be reduced. As the American furnished *more* goods to the country, *less* foreign goods would be imported, revenue would be diminished, and the duty must come down. Under such a rule, what man in his senses would invest a dollar in manufactures? When, by industry and enterprise, he was getting the better of his foreign competitor, the duty must go down. If a shoemaker or a hatter had got possession of the market, the eye of this free trade system was fastened on him like a vulture. The secretary found he was doing too well, and the duty must be reduced to let in the foreigner. The moment the American was raised to his feet in this struggle with foreigners for the American market, he was to be knocked down by the executive *poker*, and *walked over* by his secretary Walker. And this was their *American system*. It was a British system—just such a one as Sir Robert Peel would have recommended, if he could have spoken through Mr. Polk.

The secretary had said: "Experience proves that, as a general rule,

a duty of twenty per cent. *ad valorem*, will yield the largest revenue." Mr. Stewart asked, What was the well-known experience of the country? We had a tariff of twenty per cent. in 1841-2, and what was the revenue? Not one-half its present amount. The revenue from imports was then about thirteen millions; this year twenty-seven millions. Under the operation of that twenty per cent. horizontal duty, the business of the country was prostrate, the government was bankrupt, and the people little better. If the duties were reduced to a certain point, the duties would be insufficient to meet the public expenditures. To make up the revenue, the importations must be increased to such an amount as to drain the country of its specie, and soon leave it without the ability to buy. These facts had never been successfully answered.

Mr. S. said the message and report *assumed*, that *protective* duties had increased prices. This he denied. He could prove, by documents, by every price current, and every merchant in the country, that the prices of protected goods had been reduced by competition since the introduction of minimums and specific duties in 1816, to one-half, one-third, one-fourth, and even to one-sixth part of what they were at that time. And while the poor man was now supplied at lower prices, the prices of labor, and of the produce of the farmer, owing to the increased demand produced by the increase of manufactures, had undergone little or no reduction. He challenged the president and secretary to prove that, in a single instance, protective duties had permanently increased prices.

The president and secretary wanted a tariff just sufficient to meet the public expenditures, and no more. The present tariff, then, was just the thing. They tell us the expenditures have been this year \$29,968,207, and the revenue, \$29,769,133. Why, then, disturb or change the tariff? Last year, when threatened with a large surplus, we were told that the tariff must be reduced to *reduce* the revenue. Now we are told we must reduce the tariff to *increase* the revenue. Mr. Stewart continued his review of the message and report, commenting upon several other parts of them, quoting from Mr. Jefferson, and from Gen. Jackson's letter to Dr. Coleman. He also considered the effect of the tariff upon agriculture. His argument was substantially the same on this point as in 1827, and as given in a preceding chapter.

A long time was spent by the secretary of the treasury in connection with the committee of ways and means, in adjusting a bill, which was at length (April 14) reported to the house by Mr. M'Kay. Having given liberal abstracts of former discussions on this subject, it is considered unnecessary to present a sketch of the debate at this session. By a vote

of the house, the debate was to terminate the 2d of July, at 2 o'clock and voting to commence. On the 30th of June, an attack was made upon it which was succeeded by sundry amendments. Niles' Register of July 4, in giving an account of the proceedings, says :

On Tuesday, a great sensation was produced in the house by a speech delivered by Mr. Brinkerhoof, a leading administration member from Ohio, who announced that he was authorized to say, on behalf of the administration members of that state, that they were unanimously opposed to Mr. McKay's bill, and would not vote for it. He attacked the course of the administration in very strong and plain language, and that of the "organ" at Washington (the Union) especially. He asserted that those who agreed with him in the course proposed, "could defeat the bill, and would defeat it." Mr. B. was opposed to taxing tea and coffee. He complained bitterly that, after declaring that Oregon was ours of right, up to 54 degrees, 40 minutes, the government had come down below 49 degrees, and given up the navigation of the Columbia. Now we must pay for a war for southern conquest, after you have given away millions upon millions of acres of our own territory at the north. Will you now ask from us to grant you a tax on tea and coffee? And do you think we will give it? No; we will do no such thing. I said in the beginning that I rose here to have some plain talk. And now I ask you, suppose you strike out tea and coffee from your bill, what then? I have always stood up for a revenue tariff; I stand for it still. I will go neither for a tariff for protection, nor for a tariff for the destruction of revenue; and therefore the next question is, will your bill raise revenue enough for the use of the government without tea and coffee? The average expenditure of this government has been shown to be nearly twenty-six millions per annum; and you have brought us a bill which, without tea and coffee, will not give you eighteen millions. I am under no pledge to go for a tariff to destroy revenue, and especially when it is foreseen and so intended, that this shall lead to a permanent tax on tea and coffee. "To go with our eyes open, and with full knowledge, for the destruction of a tariff which does yield sufficient revenue, to a bill which begins with a deficit of three or four millions, we can not do it; and we will not do it."

This was the introduction to a violent debate, in which many members participated. The debate closed at the time appointed, after the conclusion of the *seventy-third* speech. Then commenced a succession of propositions for amendment, Mr. McKay himself taking the lead. Among the amendments adopted, was the exempting of tea and coffee from duty. On this the treasurer had calculated for some three millions of revenue. To these articles was added *salt*, which would considerably diminish it

The vote by which this article had been made free, was reconsidered and *reversed*. The bill was passed by the house, 114 to 94.

In the senate, the bill continued in suspense about three weeks. The senate being known to be nearly equally divided upon it, the final action of that body was awaited with great anxiety. Senator Haywood, of North Carolina, a democrat, resigned his seat before the vote was taken. Mr. H. was opposed to the tariff of 1842, as also to the present bill; considering the former too highly protective, and the latter as insufficient to provide the necessary revenue. His resignation, which, it was apprehended, would effect the defeat of the bill, subjected him to severe censure from his political friends. He was denounced by the "official" paper as "an apostate and deserter," and as having "surrendered his post into the hands of the enemy." The governor of North Carolina being a whig, it was presumed that a tariff senator would be appointed in his place. Mr. Haywood was in favor of the tariff bill of 1844, reported by Mr. M'Kay.

The fate of the bill was now considered suspended upon the vote of Mr. Jarnagin, a whig senator from Tennessee, who, though opposed to the bill, had been instructed by the democratic legislature of his state to vote for the repeal of the tariff of 1842; and he considered himself bound to obey the instructions. To insure his vote, however, and the votes of several others, an objectionable provision of the bill was removed, and the bill was then passed, 28 to 27; its passage having been effected by the vote of Mr. Jarnagin. The house concurred in the amendment. Thus was established what was denominated the "revenue tariff" of 1846.

A bill was also passed, establishing what is called the *warehouse system*. By the provisions of this act, goods imported may be deposited in the public stores without the payment of the duties, there to be kept at the charge and risk of the owner, importer, or consignee. The goods are to be redelivered at any time within a year, on the payment of the duties; or, without the payment of duties, if they are to be reshipped, on security being given that they shall be landed out of the jurisdiction of the United States. This bill, it was apprehended by the opposition, would materially affect the revenue. It was pronounced "an adjunct to the anti-protective tariff act." It would enable foreigners to send in their goods at pleasure, and to store them in our warehouses without paying duties, until the market should please the owners. Hence it was called "a law to provide storehouses for foreign goods at a low rent." One effect of the law was, that goods being admitted immediately, large quantities were imported, and deposited until the 1st of December following, when the new tariff went into operation; thus

allowing the foreigner to avail himself of the advantage of the low duties. At this session also was passed the act for reëstablishing the sub-treasury, which had been repealed in 1842. In pursuance of a recommendation by the president in his annual message, a bill was reported early in the session, by the committee of ways and means. It passed the house April 2d, by a vote of 123 to 67. It passed the senate, August 1st, by a strict party vote, 28 to 24.

One of the principal provisions of this law, and that which, perhaps, was deemed most objectionable, and which was by some considered impracticable, was that which required all receivers and disbursers of the public revenue, including all postmasters, to collect and pay out specie only. The opponents of the measure apprehended that the employment of so large a portion of the specie of the country in the payment of duties and other financial transactions, would have an unfavorable effect upon the currency, and embarrass commercial operations generally. The expensiveness of the system was also urged as an objection. The cost of the necessary rooms, vaults, safes, &c., in the different places where the revenue is collected, and the compensation of the numerous treasurers, assistants, and clerks, might all be saved by the employment of banks to receive, keep, and pay out the public moneys. How faithfully the provisions of the law have been carried out, we have before us no data from which the fact can be determined. So far, however, as it applies to postmasters, its provisions are but little, if at all observed.

CHAPTER LXX.

PRESIDENTIAL CAMPAIGN OF 1848.—ELECTION OF GEN. TAYLOR.

As early as the summer of 1846, soon after the early and successful battles in the Mexican war, and before the presidential question had been much agitated, the name of Gen. Taylor began to be mentioned in connection with the presidency of 1848. At an early period of the next year, formal nominations of the general at public meetings had already become frequent. Several letters addressed him on the subject, with his replies, had appeared in the papers; and long before the close of the year, he was prominently before the people as a candidate. Although he was said to be a whig, he had in all his letters disclaimed party attachments and party preferences, and had scrupulously refrained from any declaration of his political opinions.

Many of the old and firm friends of Mr. Clay were reluctant to abandon their long-tried candidate. Others, though they had no personal objection to Mr. Clay, doubting his availability, were for dropping him for "some man," to use the language of a prominent whig editor—"whose name had not been for years the watch-word of party divisions; who commands, by his character and his acts, the respect and admiration of the whole country, and whom all men and all parties can support, without giving the lie to their past conduct. If there is any such man in this country at present, it is Gen. Taylor."

It soon became apparent, however, that he could not obtain the unanimous support of the whig party. He was a slaveholder, and it was presumed that he was in favor of the extension of slavery, or at least that his influence would not be exerted against it. The acquisition of an extensive territory from Mexico was then in prospect; and a large portion of the whig party, being committed to the Wilmot proviso, were opposed to the election of any man for president who was not known to be in favor of applying that proviso to the territories of the United States. Another objection to Gen. Taylor was, that he was not a professed whig. Indeed he disavowed having any connection with, or affinity for any political party; and declared the purpose of being elected, if at all, as a no-party candidate. In reply to a letter from a committee of a democratic meeting in Tennessee, which had solicited an expression of his views in relation to the principles of that party, he refused to make any declaration of his sentiments, saying, that, even if disposed to do so, he could not spare the time from his official duties for such an investigation of political subjects as would enable him to make a reply satisfactory to himself or to the committee. He had been for nearly forty years in the military service, most of the time in the field, in the camp, or on the western frontier—situations unfavorable to investigation—and during which period he had not even voted for a chief magistrate or any other public officer; having been during the greater part of the time beyond the limits of the states. If elected—which would be done without any agency of his own—he would serve the people honestly and faithfully, and in conformity to the provisions of the constitution, according to the construction and practice of the early presidents, two of whom (Washington and Madison) had participated in creating it and putting it into operation.

In a letter to Dr. Bronson, of South Carolina, he said: "If I were called to the presidential chair *by the general voice of the people, without regard to their political differences*, I should deem it to be my duty to accept the office." But he said "he could not submit to the exaction of any other pledge as to the course he should pursue, than that of dis-

charging the functions of the office to the best of his ability, and in accordance with the requirements of the constitution." In this letter he went so far as to say, that though he had never exercised the privilege of voting, had he been called upon at the last presidential election to do so, *he should most certainly have cast his vote for Mr. Clay.*

Probably no other candidate for the presidency ever wrote so many letters relating to his nomination and election; and in all his correspondence he maintained the position first assumed, that "he would not be the candidate of any party;" that "if he ever filled that high office, it must be untrammelled with party obligations;" that he "would be the chief magistrate of the nation, and not of a party;" that he "could not in any case permit himself to be brought before the people exclusively by any of the political parties, that now so unfortunately divided the country." He had no objection to being nominated by meetings or conventions, whether designated as whig, democratic, or native; but he "must insist on the condition—and his position on this point was immutable—that he should not be brought forward as the candidate of any party, or considered as the exponent of its party doctrines." Again: if elected, he would "look to the constitution, and the high interests of our common country, and not to the principles of a party, for his rules of action;" and "if the whig party desired at the next presidential election to cast their votes for him, they must do it on their own responsibility, and without any pledges from him." And again, he said: "If nominated by the whig national convention, I shall not refuse acceptance, provided I am left free of all pledges, and permitted to maintain the position of independence of all parties, in which the people and my own sense of duty, have placed me: otherwise I shall refuse the nomination of any convention or party." And he said farther, that he did not intend to withdraw his name, though Mr. Clay should be the nominee of the national convention, or whoever might be nominated by the national convention of either party.

These repeated declarations of Gen. Taylor, that he would not be the candidate of the whig party, as a party, or assume any party obligation, were considered by a large portion of the whig party, as an insuperable objection to his receiving a nomination. A man "who would not be the exponent of whig doctrines," ought not to receive the nomination of the whig convention.

The democratic national convention met at Baltimore on the 22d of May, 1848. The president of the convention was Andrew Stevenson, of Virginia. The two-thirds rule, as in former late conventions, was adopted. The harmony of the convention was much disturbed by the conflicting claims of two sets of delegates from the state of New York, designated

'Hunkers" and "Barnburners," each claiming to be the *regular* delegates. Members of each delegation were allowed to advocate their respective claims. On the 4th day of the session, by a vote of 133 to 118, both delegations were admitted to seats in the convention, with power jointly to cast the vote of the state. Mr. Daniel S. Dickinson, of the Hunker delegation, made a formal protest against the admission of both delegations, as calculated to satisfy neither party. Mr. Cambreleng, of the other party, asked leave for the Barnburner delegation to retire, which was granted. The next day, the latter delegation having left, Mr. James C. Smith, one of their number, presented a protest against the action of the convention; and the delegation declined taking seats with the others, the former alone being entitled to them. Mr. Dickinson, in behalf of the Hunkers, said they could not vote in the convention, consistently with dignity and propriety. So neither delegation took part in the nominations.

Gen. Cass, on the first ballot, received 125 votes, being just one-half of the whole number cast; on the second ballot he received 153, being a large majority; and on the 4th ballot, 179; Mr. Woodbury, 38; Mr. Buchanan, 33; and Gen. Worth, 3. Having a majority of two-thirds, Gen. Cass was declared nominated. For candidate for vice-president, Gen. William O. Butler, of Kentucky, received the unanimous vote of the convention, except New York, which did not vote.

The whig national convention met at Philadelphia on the 7th of June. John C. Morehead, of North Carolina, was chosen president of the convention. Disturbed, and even tumultuous as the democratic convention was said to have been, it was probably no more so than its whig rival. From the well known fact that the mass of the whig party was in favor of the Wilmot proviso, and from the dissatisfaction which prevailed, at the unwillingness of Gen. Taylor to commit himself to whig principles, as well as from the belief that a majority of the delegates elect were in favor of Mr. Clay, his nomination was regarded as almost certain. On the second day, a secret session was held; after which, the ballottings commenced. Gen. Taylor received on the first ballot 111 votes; Mr. Clay, 97; Mr. Webster, 21; Gen. Scott, 46; John M'Lean, 2. After another unsuccessful attempt, farther ballotting was deferred till the next day. A proposition made by the Ohio delegation, to exclude all candidates for nomination who were not openly avowed whigs, was, after a warm debate, ruled out of order. The Louisiana delegation stated, professedly by authority of Gen. Taylor himself, that he was in the hands of his friends, who were at liberty to withdraw his name if they thought proper, though he did not consider it proper to do so himself. He also considered it the duty of his friends to abide the decision of the convention

The balloting was resumed the next day (June 9th,) Gen. Taylor receiving 133 votes; Mr. Clay, 74; Gen. Scott, 53; Mr. Webster, 16; John M. Clayton, 1. The second ballot of that day, resulted in a choice; Gen. Taylor having 171 votes; Mr. Clay, 30; Gen. Scott, 63; Mr. Webster, 12.

The state of feeling which prevailed in the convention is exhibited in a report of a part of the proceedings, made by the delegate from the 8th district of New York, Isaac Platt, who vouches for its accuracy:

After the organization, resolutions having been offered proposing to commence voting for candidates, Mr. Campbell, of Ohio, moved to amend the resolutions by adding, that, to entitle a candidate to a nomination, he must have given "assurances that he would abide by, and support the nomination; that he would accept it; that he would consider himself the candidate of the whigs; and that he would use his influence to bring into practical operation the principles and measures of the whig party." An angry excitement, great confusion, and numerous calls to order, followed; and the president declared the resolution out of order, from which decision Mr. C. appealed, and the question of appeal was debated by himself and others.

Mr. Fuller, of New York, having succeeded in getting the floor, offered the following resolution, which had been drawn up by Mr. Platt:

"*Resolved*, That, as the first duty of the representatives of the whig party is to preserve the principles and integrity of that party, the claims of no candidate for nomination can be considered by this convention, unless such candidate stands pledged to support, in good faith, the nominees, and to be the exponent of whig principles."

This resolution was said to have been followed by a greater excitement than the first. Several of the Taylor men, it was said, "became nearly furious, while their opponents insisted that it contained nothing to which any whigs should object." This resolution also was declared *out of order*. An appeal was made, and, amidst great confusion and excitement, laid on the table.

Mr. Allen, of Massachusetts, after the nomination, expressed the opinion, that, by this nomination, the whig party had been that day dissolved; still, he would make one more effort to apply the proper party test, and presented a resolution, a part of which only was read, and the reception of which was said to be correctly reported, as follows:

"*Resolved*, That the whig party, through its representatives here, agrees to abide by the nomination of Gen. Zachary Taylor, [cheers,] on condition that he will accept the nomination of the whig party, and adhere to its great fundamental principles: No extension of slave territory by conquest [hisses and cheers, cries of order, sit down, hear him,]

protection to American industry, [tremendous cheers, rapping, and cries of order, sit down, go on,] opposition to executive patronage, [cheers and hisses.] Mr. Chairman: I—" [Such were now the rapping, the cries of order, and the confusion, as to prevent Mr. Allen from proceeding; and, without being permitted to resume, the president declared him out of order.]

A resolution having been moved declaring the unanimous nomination of Messrs. Taylor and Fillmore, another excitement was produced by a motion to *divide* the resolution. It having become manifest that unanimity was not to be secured, Mr. Tilden, of Ohio, presented the following resolution, upon the adoption of which, he said, the vote of that state would depend.

"*Resolved*, That, while all power is denied to congress under the constitution, to control, or in any way interfere with, the institution of slavery within the several states of this union, it nevertheless has the power, and it is the duty of congress to prohibit the introduction or existence of slavery in any territory now possessed, or which may hereafter be acquired by the United States." This resolution, it was said, created a more angry excitement than any of those previously offered, and was laid on the table. Probably to prevent the introduction of more resolutions, it was agreed that the resolution of concurrence also should be laid upon the table.

As a last desperate movement, Mr. Hilliard, of Alabama, introduced a resolution approving the doctrines of Gen. Taylor's letter to Captain Allison; but this also being opposed, it was withdrawn, and the convention adjourned without passing any resolutions having reference to whig principles, the issues before the country, or of concurrence in the nominations.

The Allison letter here referred to, contained a fuller exposition of his political opinions than any other of his published letters, and appeared to be satisfactory to the great body of the whig party. We subjoin that part of the letter which constitutes his platform of principles. Being "not sufficiently familiar with all the minute details of political legislation to pledge his influence to carry out this or defeat that measure," he refrains from committing himself to any particular measures, saying: "One who cannot be trusted without pledges, can not be confided in merely on account of them." He then proceeds to respond to the inquiries of his correspondent thus:

"*First*—I reiterate what I have often said—I am a whig, but not an ultra whig. If elected I would not be the mere president of a party. I would endeavor to act independent of party domination. I should feel bound to administer the government untrammelled by party schemes.

"*Second*—The veto power. The power given by the constitution to the executive to interpose his veto, is a high conservative power; but in my opinion should never be exercised except in cases of clear violation of the constitution, or manifest haste and want of consideration by congress. Indeed, I have thought that for many years past, the known opinions and wishes of the executive, have exercised undue and injurious influence upon the legislative department of the government; and for this cause I have thought our system was in danger of undergoing a great change from its true theory. The personal opinions of the individual who may happen to occupy the executive chair, ought not to control the action of congress upon questions of domestic policy, nor ought his objections to be interposed where questions of constitutional power have been settled by the various departments of government and acquiesced in by the people.

"*Third*—Upon the subject of the tariff, the currency, the improvement of our great highways, rivers, lakes, and harbors, the will of the people, as expressed through their representatives in congress, ought to be respected and carried out by the executive.

"*Fourth*—The Mexican war. I sincerely rejoice at the prospect of peace. My life has been devoted to arms, yet I look upon war at all times and under all circumstances as a national calamity, to be avoided if compatible with national honor. The principles of our government as well as its true policy, are opposed to the subjugation of other nations, and the embarrassment of other countries by conquest. In the language of the great Washington, "Why should we quit our own to stand on foreign ground?" In the Mexican war, our national honor has been vindicated, amply vindicated, and in dictating terms of peace we may well afford to be forbearing and even magnanimous to our foes."

The nomination of Gen. Taylor was immediately followed by expressions of dissatisfaction by whigs in all parts of the north; and a large portion of the party declared their determination not to support the ticket. So extensive was the dissent to the nomination, that, but for the division of their political opponents, there could have been little hope of electing their candidates. Mass meetings were soon called of the disaffected irrespective of party, and resolutions adopted declaring uncompromising hostility to the extension of slave territory; and a long time did not elapse before there appeared to be a prevailing determination to form a new party, based upon the principle of the Wilmot proviso, which purpose was soon carried into effect.

Meetings also of the disaffected of the democratic party were held, at which opposition was declared against the nominees of the Baltimore convention. A state convention of the Barnburners was held at Utica,

New York, on the 22d and 23d of June, the Hon. Samuel Young, presiding. A letter had been previously addressed to Mr. Van Buren on the subject of the presidency, to which he had replied, expressing his adherence to the determination formed in 1844, not to be again a candidate for the presidency. The letter, however, was in favor of free territory principles, and declared that he could not vote for Gen. Cass or Gen. Taylor. The convention, notwithstanding, nominated Mr. Van Buren for president, and Henry Dodge, senator in congress from Wisconsin, for vice-president. The latter declined the nomination, and supported Gen. Cass.

On the 9th of August was held a national mass convention of the friends of free territory at Buffalo. Nearly all of the free, and three of the slave states, Delaware, Maryland, and Virginia, were represented. After the temporary organization of the convention, its sentiments were indicated by the adoption, by acclamation, of three resolutions which were read by the Hon. Preston King, of New York, and which were in substance as follows: *First*, That it is the duty of the federal government to abolish slavery wherever it has the constitutional power to do so, and that the government is responsible for its existence in such places. *Second*, That the states within which slavery exists, are alone responsible for the continuance or existence of it within those states, and that the general government has no authority over slavery within the states. *Third*, That the true and safe means of preventing the existence of slavery in territory now free, is by congressional action.

Charles Francis Adams, of Massachusetts, was chosen president of the convention; and a vice-president from each of the states. The committee on nominations reported in favor of the nomination of Martin Van Buren for president; and on balloting Mr. Van Buren received 244 votes, and John P. Hale 181. Mr. Hale was senator in congress from New Hampshire, a democrat, who had become separated from his party by his adoption of the "free soil" principle. He was at this time a candidate for president, having been nominated by the anti-slavery party. Charles Francis Adams was nominated by acclamation for vice-president. Before the convention proceeded to the balloting, a letter from Mr. Van Buren was read to the convention, approving the objects of preventing the introduction of slavery in the territories, and expressing the wish that another name might be substituted for his own, which had already been used for this purpose. Mr. Hale having expressed his willingness to submit to the action of the convention, his name was subsequently withdrawn from the list of candidates.

The position of Gen. Cass in relation to the Wilmot proviso, was defined in a letter to a Mr. Nicholson of Tennessee. He had been in favor

of applying that restrictive principle to the territory of the United States; but he had receded from that position. He said in the letter alluded to: "The Wilmo^t proviso has been before the country some time. It has been repeatedly discussed in congress, and by the public press.

"I am strongly impressed with the opinion that a change has been going on in the public mind upon this subject—in my own as well as others; and that doubts are resolving themselves into conviction, that the principles it involves should be kept out of the legislatures, and left to the people of the confederacy in their respective local governments.

"Briefly, then, I am opposed to the exercise of any jurisdiction by congress, over this matter; and I am in favor of leaving to the people of any territory which may be hereafter acquired, the right to regulate it for themselves under the general principles of the constitution."

Gen. Taylor was addressed, immediately after his nomination, by the president of the convention, informing him of his nomination; but for reasons unknown, the letter of acceptance was long delayed. He having pertinaciously refused to be considered a party candidate, and having even stated, in some of his letters, that he would as willingly receive a nomination from the democratic or native American party as from the whigs, the public waited impatiently to learn whether he would accept *as a whig*. Judging, perhaps, from the representations of the Louisiana delegation in the convention, it was hoped, and some of his friends confidently predicted, that he would so accept the nomination. The letter which at length appeared, under date of July 15th, did not fully meet the expectations of those who considered it his duty to accept as a *whig candidate*. He said:

"Looking to the composition of the convention, and its numbers and patriotic constituents, I feel duly grateful for the honor bestowed upon me, for the distinguished confidence implied in my nomination to the highest office in the gift of the American people. I cordially accept that nomination, but with sincere distrust of my fitness to fulfill the duties of an office which demands for its exercise the most exalted abilities and patriotism, and which has been rendered illustrious by the greatest names in our history."

Besides his answers to letters from other parties, he had also responded to a letter from a meeting of all parties, or, as it may be termed, a "no-party" meeting at Baltimore by which he had been nominated, in which letter he said:

"The political sentiments embraced in the preamble and resolutions adopted at that meeting, I rejoice to say, meet my cordial approval and assent. No movements in any part of the country, having the object to offer testimonials of honor and respect towards myself, or to advocate my

election to the presidency, have caused in me more lively pleasure, or demand more my gratitude." And having made the nomination "on their own responsibility, free from party action, and the exaction of pledges from myself, I shall serve them strictly as a constitutional, and not as a party president."

Gen. Taylor continued, after his nomination, to write letters of the same character as those which he had written before, disclaiming that he was a party candidate. To a friend in Charleston, South Carolina, he wrote, that he had accepted the nomination of the Philadelphia convention and of many primary assemblages, irrespective of party, "and would have accepted the nomination of the Baltimore convention, had it been tendered on the same terms."

At Charleston, he was nominated by a meeting of the democrats, who apprehended that Gen. Cass, being a northern man, was not reliable on the subject of slavery, which the meeting resolved to be "paramount to all questions." A copy of the proceedings of the meeting was sent him, together with an address, in which it was stated: "We know that, in this great paramount and leading question of the rights of the south, he is of us, he is with us, and he is for us;" and also a letter formally apprising him of the nomination. He acknowledged the receipt of the letter "with emotions of profound gratitude," and added: "Concluding that this nomination, like all others which I have had the honor of receiving from assemblages of my fellow-citizens in various parts of the union, has been generously offered, without pledges and conditions, it is thankfully accepted;" &c.

The appearance of these letters simultaneously with the defective acceptance of the whig nomination, and the additional fact that he had accepted the Charleston nomination, knowing that his name was on the same ticket with that of the democratic candidate for vice-president, thus giving countenance to a part of the democratic ticket, excited among the whigs feelings of chagrin and indignation. At Albany, on the arrival of the news of the general's acceptance of the Charleston democratic slavery nomination, a call was issued for a meeting of the whigs to take the subject into consideration. A large and enthusiastic meeting was held, at which the leading whigs of the city declared their determination to abandon the support of Gen. Taylor. The meeting, which took place on Saturday evening, was adjourned till Monday evening, when, upon more mature consideration, the purpose expressed at the previous meeting was relinquished. The murmurs of dissatisfaction from the mass of the disaffected whigs soon ceased; and before the election, most of the dissenters had returned to their party allegiance.

Of the presidential electors chosen at the election in November, 1836 gave their votes for Taylor and Fillmore; and 127 for Cass and Butler

CHAPTER LXXI.

BILLS FOR CALIFORNIA AND OTHER TERRITORIAL GOVERNMENTS.

ONE of the exciting topics of the session of 1847-48, was the establishment of a territorial government for Oregon. A bill for this purpose was reported early in the session, but was not disposed of until just at its close. The question of slavery, including the Wilmot proviso and the Missouri compromise, furnished the matter for this protracted debate. The question of the power of congress to legislate on the subject of slavery in the territories, was elaborately discussed in the senate, by Mr. Dix, of New York, and Mr. Calhoun; the former most ably maintaining the affirmative of the proposition, and the latter denying it.

Mr. Dix, although he made a luminous and powerful argument in favor of the power in question, stated certain positions which he thought constituted a proper basis for the settlement of the question; positions, the correctness of which a majority of the friends of free territory, it is believed, do not concede. They are these: 1. All external interference with slavery in the states is a violation of the compromises of the constitution, and dangerous to the harmony and perpetuity of the federal union. 2. Territory acquired by the United States, should, in respect to slavery, be received as it is found. If slavery exists therein at the time of the acquisition, it should be left to remain undisturbed by congress. If it does not exist therein at the time of the acquisition, its introduction ought to be prohibited while the territory continues to be governed as such. 3. All legislation by congress in respect to slavery in the territory, ceases to be operative when the inhabitants are permitted to form a state government; and the admission of a state into the union carries with it, by force of the sovereignty such admission confers, the right to dispose of the whole question of slavery at its discretion, without external interference.

If by the "external interference" referred to in the first position, is meant external *legislative* interference with slavery in the states, the proposition will not be disputed by any one. But if this interference is intended to include all discussion and agitation of the question of slavery, and all attempts, by moral means, to effect the abolition of slavery in the states, the position will be extensively controverted. The assertion in the second position, that congress, although it has

power to remove a serious evil, *ought to leave it as it is found*, is equally far from receiving general assent. As to the third proposition, if it goes so far as to deny the power of congress to refuse the admission of a state on the ground that its constitution does not prohibit slavery, this doctrine also, it is believed, is not in accordance with public sentiment in the free states. The right of a state, *after its admission*, to establish slavery, is not disputed.

Mr. Calhoun denied the existence of the power of congress to exclude the south from a free admission into the territories with its slaves. He denied what had been by many assumed, that congress had an absolute right to govern the territories. The clause of the constitution which gives "power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States," did not, he said, convey such a right: "it conferred *no governmental power whatever*; no, not a particle." It only referred to territory as public lands—as *property*—and gave to congress the right to dispose of it as such, but not to exercise over it the power of government. Mr. Calhoun thought the best method of settling the slavery question was by *non-action*—by leaving the territories free and open to the emigration of all the world, and when they became states, to permit them to adopt whatever constitution they pleased.

Mr. Calhoun considered the interference on the subject dangerous to the union. If the union and our system of government were ever doomed to perish, the historian who should record the events ending in so calamitous a result, would devote his first chapter to the ordinance of 1787; his next to the Missouri compromise; and the next to the present agitation. Whether there would be another beyond, he knew not. He reviewed and controverted the doctrines of the declaration of independence. The proposition that "all men are created free and equal" he called a "hypothetical truism." Literally, there was not a word of truth in it. This assertion he supported with the singular argument, that "men are not born free. Infants are born. They grow to be men. They were not born free. While infants, they are incapable of freedom; they are subject to their parents." Nor was it less false that they are born "equal." But in the declaration of independence the word "free" did not occur. Still the expression was erroneous. "All men are not created. Only two, a man and a woman, were created, and one of these was pronounced subordinate to the other. All others have come into the world by being born, and in no sense, as I have shown, either free or equal." This expression, Mr. C. said, had been inserted in the declaration without any necessity. It made no necessary part of our justification in separating ourselves from the parent country.

Nor had it any weight in constructing the governments which were to be substituted in the place of the colonial. They were formed from the old materials, and on practical and well established principles, borrowed, for the most part, from our own experience, and that of the country from which we sprang.

Mr. Calhoun argued, that, instead of liberty and equality being born with men, and instead of all men and all classes being entitled to them, they were high prizes to be won; they were rewards bestowed on mental and moral development. The error which he was combating had done more to retard the cause of liberty and civilization, and was doing more at present, than all other causes combined. It was the leading cause which had placed Europe in its present state of anarchy, and which stood in the way of reconstructing good governments. He concluded as follows :

"Nor are we exempt from its disorganizing effects. We now begin to experience the danger of admitting so great an error to have a place in the declaration of our independence. For a long time it lay dormant; but in process of time it began to germinate, and produce its poisonous fruits. It had strong hold on the mind of Mr. Jefferson, the author of that document, which caused him to take an utterly false view of the subordinate relation of the black to the white race in the south; and to hold, in consequence, that the latter, though utterly unqualified to possess liberty, were as fully entitled to both liberty and equality as the former; and that to deprive them of it was unjust and immoral. To this error, his proposition to exclude slavery from the territory north-west of the Ohio may be traced, and to that the ordinance of 1787, and through it the deep and dangerous agitation which now threatens to engulf, and will certainly engulf, if not speedily settled, our political institutions, and involve the country in countless woes."

On the 6th of July, the Oregon bill being still pending, the president transmitted to congress a message, with a copy of the ratified treaty. On the 11th, Mr. Clayton, in the senate, moved that the Oregon bill and amendment be referred to a select committee of eight, four from the north, and four from the south, equally divided also as to their party politics. A modification being suggested by Mr. Bright, of Indiana, so as to include so much of the president's message as related to the new territory of California, New Mexico, &c., recently acquired by treaty with Mexico, and referred to the select committee of eight. The proposition having been accepted by Mr. Clayton, it was adopted, 31 to 14. On the 18th, Mr. Clayton, from the select committee, reported a bill to establish territorial governments in New Mexico and California. The following is a synopsis of the report :

The committee recommended the passage of the Oregon bill, nearly as it came from the house, and without the senate's proposed amendments, simply amending it so as to hold the existing territorial laws of Oregon in force, until after the new government had time to act, and to reenact or repeal them. Oregon was to have a legislative assembly of two houses, elected by the people.

New Mexico and California were to be organized into separate territories, with governors, judges, secretaries, district attorneys, and marshals, appointed by the president and senate of the United States; the constitution and laws of the United States to be extended over them: the governors and judges in California and New Mexico to constitute a legislative council, and to be authorized to pass laws, subject to the revision or rejection of congress; but such council not to legislate respecting slavery, the establishment of religion, the pledging of the faith of the territory, nor to dispose of the soil. If any question on the subject of slavery should arise, it was to be left to the decision of the judiciary of the United States. Courts were to be established, with the right to appeal to the supreme court of the United States.

Here was a compromise bill, not to divide free and slave territory upon a given line, but proposing equal advantages to slavery. A compromise line had been proposed and rejected in the committee of eight; and the plan reported was the only one that could be devised, which would secure any approach to unanimity. By the opponents of slavery, the bill was considered as almost certain to secure the preoccupation of the territory to slavery. The taking of the power of legislating for the territory out of the hands of the two hundred and ninety representatives of the nation, and conferring it upon some eight or ten persons appointed by a slave-holding president, and forbidden to pass any law respecting slavery, thus leaving the country open to slaveholders; subjecting questions of slavery to the decision of the local judges, also appointed by the president; appeals from their decision to be taken to the supreme court of the United States—a majority of the judges being slaveholders:—all this was regarded as tantamount to the establishment of slavery in those vast territories.

By the provisional government then existing in Oregon, slavery was prohibited. The present bill provided, that, if the territorial legislature of Oregon should not reaffirm the law of the provisional government prohibiting slavery, within three months after the assembling of the first territorial legislature, that law was to be null and void. By another provision of the bill, all bills passed by the territorial legislature were required to be submitted to congress, and, if not approved, were to be void. As it was not probable that both houses of congress

would at any time be opposed to the introduction of slavery in the territories, this provision was considered as in effect removing the restriction upon slavery in that territory. This bill, with some amendments, one of which allowed an appeal from a decision of the state court to the supreme court of the United States, in any case involving the question of personal freedom, passed the senate, on the morning of the 27th of July, after a continuous session of twenty-one hours. The vote was, ayes, 33; noes, 22. In the house, the bill was taken up the next day, and, by a vote of 112 to 97, laid on the table. The house then, in committee of the whole, resumed the consideration of their own bill providing a government for Oregon, which passed that body on the 2d of August, 129 to 71. It contained a provision for extending the ordinance of 1787 over the territory; and another to abolish the veto power of the governor. In the senate, it was amended so as to restore this power to the governor. The section also prohibiting slavery, was amended, by inserting, "Inasmuch as the said territory is north of the parallel of 36 degrees and 30 minutes of north latitude, usually known as the Missouri compromise." As the whole territory of Oregon lies north of the 42d degree, the object of this amendment was to make the record appear that slavery was prohibited in that territory, in accordance with the compromise, in order to remove all ground for any future pretext to carry the anti-slavery proviso south of the compromise line.

These amendments of the senate were all negatived in the house, ayes, 82; noes, 121; and the bill returned to the senate, where, after a protracted debate, the question on a motion to recede from the amendment by which the Missouri compromise had been inserted, was taken, and carried in the affirmative, 29 to 25. The bill was then passed by the same vote, Sunday morning, the 13th of August. The session closing the next day, no bill was passed for the government of the new territories. It was supposed, and not altogether without reason, that the "free soil" movement at the north contributed, in no small degree, to effect the passage of the Oregon bill.

At the next session (1848-49,) another unsuccessful attempt was made to provide for the government of the newly acquired territory. A bill was introduced into the senate, December 11, 1848, by Mr. Douglass, of Illinois, for the admission of California as a state, to include all the territory acquired by treaty from Mexico. The state was to come into the union on an equal footing with the other states. The laws of the United States were to be extended over the new state, so far as they were not locally inapplicable. Congress reserved the right to form and admit new states from that portion of the territory lying east of the Sierra Nevada, or California mountains. The bill also provided for the establishment

of courts; and gave to the state, until the next apportionment, two representatives in congress.

Mr. Douglas said he was ready to support the bill of Mr. Clayton, which had been defeated at the last session, and still more so to support a bill carrying out the Missouri compromise as proposed by himself. But if this could not be had, he was in favor of giving law to the people of that country by bringing them at once into the union. Amendments were proposed to this bill, one of which, (by Mr. Davis, of Mississippi,) was to annex New Mexico to Texas, with the view of immediately legalizing slavery in that part of the acquired territory. This proposition was prompted, probably, by the movement of the people in New Mexico. A convention of the people had been held in October, 1848, and a petition adopted, remonstrating against being annexed to Texas, and praying to be protected against the introduction of slavery into their territory. This petition had been presented by Mr. Benton before the introduction of the bill of Mr. Douglas. Mr. Benton moved the printing of the petition. Mr. Calhoun said he would not object to the printing, but he declared the petition to be a disrespectful and an insolent one. These people had been conquered by the very men whom they wished to exclude from that territory; and this they knew. He claimed it as a constitutional right to go there with his property; and he protested against being governed by the consideration presented under such circumstances as that under which this petition had been presented. Mr. Benton said that himself and Mr. Clayton had both been charged with the presentation of the petition; and he thought they were called upon to defend those who had sent so respectful a petition against the charge of insolence. Mr. Rusk, of Texas, claimed, as belonging to Texas, all that part of New Mexico lying east of the Rio Grande: and he protested against establishing over it a distinct and separate government. Mr. Benton's motion to print the petition was warmly opposed; but it was finally carried, 33 to 14; the noes being all from southern senators.

The bill of Mr. Douglas was silent on the subject of slavery, and also that of boundary, leaving an indefinite portion of New Mexico subject to the claims of Texas, the validity and extent of which were to be left to the decision of the supreme court. The debate was continued till near the close of the session, without effecting the passage of the bill.

In the house, on the 20th of December, 1848, Mr. Smith, of Indiana, reported a bill to establish the territorial government of Upper California. This bill provided a territorial government of the highest class: A governor, appointed by the president and senate; a legislature, composed of a council and house of representatives; and the necessary courts of justice. It embraced the anti-slavery ordinance of 1787. The bill was

under debate till within a few days of the close of the session. Several motions had been made to strike out the restrictive clause, but without success.

On the 27th of February, the question came up on a substitute previously offered by Mr. Preston, of Virginia, proposing to include *all the territory ceded by Mexico*, and to erect the same into a state. Mr. Collins moved as an amendment the anti-slavery proviso, which was adopted, 91 to 87. Mr. Preston being asked whether the bill embraced the country between the Nueces and the Rio Grande, declined making any explanations. Mr. Greeley, of New York, moved an additional section, providing that the state to be formed should include the territory east of the Rio Grande, and within certain described boundaries, (being the territory of New Mexico.)

Mr. Kaufman, of Texas, inquired of the gentleman from New York, whether he wanted to steal land enough from Texas for his Fourierite bill to operate upon—[referring to a bill introduced by Mr. Greeley, proposing to give, on certain conditions, limited quantities of the public lands to actual settlers and cultivators.] Mr. Greeley replied, that it did not become the representative from Texas to talk about land-stealing; and proceeded to advocate his amendment. The bill, by leaving the boundary undefined, virtually surrendered a large part of New Mexico to the dominion of Texas.

The object of Mr. Greeley's proposition was to protect the people of New Mexico, who had protested against being subjected to the rule of Texas. If it should form a part of Texas, it would be certain to fall under the dominion of slavery; if attached to the proposed state, there was at least a strong probability that it would continue free territory. The amendment was rejected: ayes, 59; noes, 63.

Other amendments were offered and withdrawn; and the bill was passed, with the proviso clause, 126 to 87. The bill was sent to the senate, and immediately referred to the committee on territories. Mr. Douglas, the chairman, on the last day of the session, stated that he had been unable to get a meeting of the committee to consider this bill, and moved that the committee be discharged from its farther consideration, which was done. Mr. Douglas then endeavored to bring the house to act upon the subject without a report from the committee; there being a pressing necessity for giving to the people of California some other government than that to which they were now subject. He therefore made a motion to postpone prior orders to take up the California bill; but the motion was negatived.

After this, the question of territorial government came up again in the shape of an amendment to the civil and diplomatic appropriation bill

The proposition was to authorize the president to hold possession of the acquired territory, and to employ, for this purpose, if necessary, a part of the army and navy. And, until congress should have an opportunity, at the next session, of providing for the government of the territory, the existing (that is, Mexican) laws should be observed, the civil and judicial authorities heretofore exercised, to be vested in persons appointed by the president. No martial law was to be declared, nor military courts established, except ordinary courts martial for the trial of persons belonging to the army or navy.

This amendment came to the senate from the house, being an amendment there made to an amendment to the appropriation bill above mentioned, which had been sent to the house for concurrence. When the hour of twelve arrived, several senators, considering the session as having expired, declined participating farther in the proceedings. The debate, however, proceeded for several hours, when fears were entertained that the whole appropriation would be lost if the discussion were not speedily closed. Mr. Webster, disposed to disencumber the bill from this California amendment, said he was willing to withdraw his motion to concur in the house amendment, if gentlemen would then move to recede from the senate's own amendment, and let the bill pass as a mere appropriation bill.

The question then arose, whether it was not necessary first to vote upon the motion to concur—which was debated for some time. Mr. Douglas contended that the motion to concur took the precedence, and renewed that motion. It was decided, however, that the motion to recede had precedence, and that if it prevailed, the bill would be freed from all amendments. The question on receding was then taken, and carried, 38 to 7. So the appropriation bill was passed; but no government was provided for California.

At this session was established a new executive department, styled the "Department of the Interior," or home department, the head officer of which, called secretary of the interior, is also a member of the cabinet. The increase of business of the other departments had rendered the establishment of a new department necessary. To this new officer were assigned the supervision of the office of commissioner of patents, formerly exercised by the secretary of state; certain duties in relation to the general land-office, formerly performed by the secretary of the treasury; supervisory powers relating to the acts of the commissioner of Indian affairs, previously exercised by the secretary of war; also similar powers in relation to the acts of commissioner of pensions, formerly exercised by the secretaries of war and the navy. Certain other duties of the heads of the treasury and state departments were devolved upon this new department.

CHAPTER LXXII.

INAUGURATION OF PRESIDENT TAYLOR.—CONTEST FOR THE CHOICE OF SPEAKER.—THE COMPROMISE OF 1850.

GENERAL ZACHARY TAYLOR was inaugurated as president of the United States, the 5th of March, 1849, (the 4th happening that year on Sunday.) The oath of office having been administered by Chief Justice Taney, the president delivered his inaugural address in the presence of a dense crowd of spectators. The address was a brief one, and, as regards the sentiments it expressed, considered unobjectionable. It partook much of the character of the numerous letters he had written previously to his election. He promised to make the constitution his guide in the discharge of his duties; looking for the interpretation of that instrument to the decisions of the judicial tribunals established by its authority, and following the example of the early presidents, especially of him who was entitled "the Father of his country." He repeated the assurance so frequently expressed before, that his administration "would be devoted to the welfare of the whole country, and not to the support of any particular section, or merely local interest." In the exercise of the appointing power, he would "make honesty, capacity, and fidelity indispensable prerequisites to the disposal of office." He would also favor measures "to secure encouragement and protection to the great interests of agriculture, commerce and manufactures, to improve our rivers and harbors, to provide for the speedy extinguishment of the public debt, to enforce a strict accountability on the part of all officers of the government, and the utmost economy in all public expenditures." He also indicated a purpose not to endeavor to exert any personal influence in controlling the action of congress.

President Taylor selected for his cabinet officers the following: John M. Clayton, of Delaware, secretary of state; William M. Meredith, of Pennsylvania, secretary of the treasury; Thomas Ewing, of Ohio, secretary of the interior; George W. Crawford, of Georgia, secretary of war; William B. Preston, of Virginia, secretary of the navy; Jacob Collamer, of Vermont, postmaster-general; Reverdy Johnson, of Maryland, attorney-general.

The 31st congress commenced its 1st session December 3d, 1849, and continued the same until the 30th of September, 1850, a period of nearly ten months. Much time was spent at the commencement in unsuccessful balloting for speaker. The contest was chiefly between

Robert C. Winthrop, whig, speaker of the late congress, and Howell Cobb, of Georgia, democrat. Each received, for several days, on different ballots, a plurality of from one to ten votes. The cause of the protracted balloting was the scattering of votes upon other candidates. The "free soil" democrats, unwilling to vote for a speaker so thoroughly pro-slavery as Mr. Cobb, cast their votes for Mr. Wilmot, as did also Mr. Giddings and several other free soil whigs, who considered Mr. Winthrop as having been too favorable toward the friends of slavery, during his speakership, in the appointment of committees. Mr. Winthrop also lost the votes of five southern whigs, Messrs. Toombs, Stephens, and Owen, of Georgia, Cabell, of Florida, and Morton, of Virginia, who refused to vote for Mr. Winthrop without a pledge against the Wilmot proviso.

After the first three days, the vote for Mr. Winthrop ranged from 100 to 103, while that for Mr. Cobb rapidly diminished, being at one time only five votes; the democrats having divided their votes upon other candidates. On one ballot, the highest vote given for a democratic candidate was forty-eight. On the thirty-second trial, Mr. Brown, of Indiana, was taken up as a democratic candidate, and received 53 votes, being a large plurality of the democratic vote. Mr. Brown's vote rapidly increased, until he received, on the thirty-eighth and thirty-ninth ballots, 109 votes; Mr. Winthrop, 100 and 101. Mr. Winthrop, desirous of terminating the contest, requested his friends to concentrate their efforts on some other candidate. On the next ballot, Mr. Brown received 112 votes; the whig vote was much scattered, the highest number given for any one being 26 for Mr. Duer, of New York.

Mr. Stanly, of North Carolina, moved a joint committee of three from each of the two principal parties to confer relative to the choice of proper officers of the house. During the discussion of this resolution, the fact was elicited, that the high vote given to Mr. Brown had been obtained by a private pledge, in a correspondence with Mr. Wilmot, that he would, if elected speaker, "constitute the committees on the District of Columbia, on territories, and on the judiciary, in such manner as should be satisfactory to him (Mr. Wilmot) and his friends." Mr. Brown then withdrew his name, being unwilling to occupy the chair under circumstances in which his action would be liable to misrepresentation. The fortieth ballot was scattered upon not less than thirty candidates, of whom those receiving the highest number of votes, were Mr. Winthrop, (59,) and Mr. Cobb, (40.) Mr. Boyd, of Kentucky, then became the leading candidate. Messrs. Cobb and Winthrop were subsequently returned to their original positions, each having received, on the sixty second ballot, 97 votes. In pursuance of a previous agree-

ment, it was now determined to terminate the contest by a *plurality* vote; and on the next ballot, Mr. Cobb received 102 votes, and Mr. Winthrop 99; scattering 20; of which Mr. Wilmot received 8. On motion of Mr. Stanly, Mr. Cobb was declared duly elected.

On Monday, the 24th, the message of President Taylor was communicated to both houses. The expenses of the Mexican war and treaty had occasioned a deficit in the treasury; to cover which, he recommended a resort to loans. He also recommended a revision of the tariff with a view to the augmentation of the revenue. He did not doubt the right or duty of congress to encourage domestic industry, the source of national as well as individual prosperity. He recommended the adoption of a system of specific duties, as best adapted to this object, as well as the augmentation of the revenue, and the prevention of frauds. He submitted to the wisdom of congress the question of the continuance of the sub-treasury system. If continued, it needed important modifications.

He referred to the new territories. The people of California, impelled by the necessities of their political condition, were forming a constitution and state government, and would probably soon apply for admission as a state. If their constitution should be conformable to the constitution of the United States, he recommended the admission. The people of New Mexico, also, it was believed, would at an early period apply for admission; and he recommended that congress should await the action of the people themselves in forming constitutions preparatory to the admission of California and New Mexico. This, he believed, would avoid all causes of uneasiness, and preserve confidence and kind feeling. Congress should abstain from the introduction of those exciting topics of a sectional character which had produced painful apprehensions in the public mind. Various other subjects were briefly and properly noticed in the message.

This session of congress was preëminently distinguished for the character of its legislation. Its principal business related to the territorial question, the admission of California, and other matters relating to or involving the question of slavery, resulting in another and a most singular compromise.

Various propositions were originated in both houses, in relation to the government of the acquired territory. In the senate, Mr. Foote, of Mississippi, introduced a bill for organizing territorial governments, in California, Deseret, and New Mexico; and to enable the people of Jacinto, Texas consenting, to form a state constitution and state government, and for admitting each state into the union, on an equal footing with the original states. A memorial was received from the provisional

government of the people of Deseret, accompanied by a constitution and form of state government, asking admission as a state, and if that request should be denied, then to have a territorial government.

On the 29th of January, 1850, Mr. Clay submitted a series of resolutions, proposing an amicable arrangement of the whole slavery controversy. The substance of these resolutions, eight in number, was as follows :

1. California, with suitable boundaries, ought to be admitted as a state without restriction in respect to slavery.

2. As slavery was not likely to be introduced into any of the territory acquired from Mexico, appropriate governments ought to be established in all the territory not assigned to the state of California, without restriction as to slavery.

3. The western boundary of Texas should be fixed so as not to include any portion of New Mexico.

4. The United States proposed to pay the debt of Texas, contracted prior to annexation, and for which the duties on imports were pledged, not exceeding \$——, on condition that the duties be thereafter payable to the United States, and that Texas relinquish all claim to any part of New Mexico.

5. It was inexpedient to abolish slavery in the District of Columbia, whilst it exists in the state of Maryland, without consent of the people of that state and of the District, and without just compensation of the owners of the slaves.

6. It was expedient to prohibit the slave trade within the District.

7. More effectual provision ought to be made for the restitution of fugitive slaves.

8. Congress had no power to prohibit the trade in slaves between the slaveholding states.

Mr. Rusk, of Texas, was unwilling that half of that state should be taken to make a peace-offering to the spirit of encroachment on the constitutional rights of one-half of the union.

Mr. Foote, of Mississippi, brought a long array of objections against the resolutions. They only declared it *inexpedient* to abolish slavery in the district, thus implying that *congress had the power*, which he denied. They asserted that slavery did not now exist in the acquired territory ; whereas, he thought the acquisition carried with it the constitution and all its guaranties to that territory, admitting into it the slaveholder with his slaves. Whether slavery was or was not likely to be carried thither, was a proposition too uncertain to be positively affirmed. They drew into question the title of Texas to a part of her territory. They assumed state debts, a principle to which he was opposed. If Texan soil was to

be bought, let it be paid for in money. To the abolition of the slave trade in the district, he did not object, provided it was done delicately and judiciously, and was not a concession to menaces or demands of factionists or fanatics. Provisions for restoring fugitives, and for establishing territorial governments without restriction as to slavery, he approved. If all other questions relating to slavery could be satisfactorily adjusted, all California above 36 degrees and 30 minutes might be admitted into the union, provided a new state, south of that line, could be laid off to balance it.

The resolutions of Mr. Clay were warmly opposed by southern senators, as making no concession to the south—as being no compromise at all. They objected to the admission of California, embracing all our possessions on the Pacific coast, with a provision prohibiting slavery. The declaration that slavery did not exist in New Mexico and Deseret, precluded its admission there, just as effectually as if it were positively affirmed that slavery should be prohibited. Scarcely a single resolution was satisfactory to southern senators.

Mr. Benton said, it had been affirmed and denied that slavery had been abolished in Mexico. He affirmed its abolition, and read copious extracts from the laws and constitution of Mexico, in proof of the affirmation. Slavery having been abolished by Mexican law before we acquired the countries, the Wilmot proviso in relation to these countries was a thing of nothing—an empty provision. He said also, that African slavery never had existed in Mexico in the form in which it existed in the states of this union; and that, if the Mexican law was now in force in New Mexico and California, no slaveholder from the union would carry a slave thither, except to set him free. The policy of this country was to discourage emancipation; that of Mexico had been to promote it. This was shown by numerous quotations of the laws of Mexico. Slavery was defined by Spanish law to be “the condition of a man who is the property of another against natural right.” Therefore, not being derived from nature, or divine law, but existing only by positive enactment, it had no countenance from Spanish law. He affirmed these three points: 1. Slavery was abolished in California and New Mexico before we got them. 2. Even if not abolished, no person would carry a slave to those countries to be held under such law. 3. Slavery could not exist there, except by positive law yet to be passed. According to this exposition, the proviso would have no more effect there than a piece of blank paper pasted on the statute book.

Mr. Calhoun said the union was in danger. The cause of this danger was the discontent at the south. And what was the cause of this discontent? It was found in the belief which prevailed among them that

they could not, consistently with honor and safety, remain in the union. And what had caused this belief? One of the causes was the long-continued agitation of the slave question at the north, and the many aggressions they had made on the rights of the south. But the primary cause was in the fact, that the equilibrium between the two sections at the time of the adoption of the constitution had been destroyed. The first of the series of acts by which this had been done, was the ordinance of 1787, by which the south had been excluded from all the north-western region. The next was the Missouri compromise, excluding them from all the Louisiana territory north of 36 degrees 30 minutes, except the state of Missouri; in all 1,238,025 square miles, leaving to the south the southern portion of the original Louisiana territory, with Florida; to which had since been added the territory acquired with Texas; making in all but 600,023 miles. And now the north was endeavoring to appropriate to herself the territory recently acquired from Mexico, adding 526,078 miles to the territory from which the south was if possible to be excluded. Another cause of the destruction of this equilibrium was our system of revenue, (the tariff,) the duties falling mainly upon the southern portion of the union, as being the greatest exporting states, while more than a due proportion of the revenue had been disbursed at the north.

But, said Mr. Calhoun, while these measures were destroying the equilibrium between the two sections, the action of the government was leading to a radical change in its character. It was maintained, that the government itself had the right to decide, in the last resort, as to the extent of its powers, and to resort to force to maintain the power it claimed. [He doubtless had in his mind the action of the general government in 1832, in providing for *enforcing* the collection of the revenue in South Carolina, while the authorities of that state claimed the right to resist.] The doctrines of Gen. Jackson's proclamation, subsequently asserted and maintained by Mr. Madison, the leading framer and expounder of the constitution, were the doctrines which, if carried out, would change the character of the government, from a federal republic, as it came from the hands of its framers, into a great national consolidated democracy.

Mr. Calhoun also spoke of the anti-slavery agitation, which, if not arrested, would destroy the union; and he passed a censure upon congress for receiving abolition petitions. Had congress in the beginning adopted the course which he had advocated, which was to refuse to take jurisdiction, by the united voice of all parties, the agitation would have been prevented. He charged the north with false professions of devotion to the union, and with having violated the constitution. Acts had been passed in northern states to set aside and annul the clause of

the constitution which provides for delivering up fugitive slaves. The agitation of the slavery question, with the avowed purpose of abolishing slavery in the states, was another violation of the constitution. And during the fifteen years of this agitation, in not a single instance had the people of the north denounced these agitators. How then could their professions of devotion to the union be sincere?

Mr. C. disapproved both the plan of Mr. Clay and that of president Taylor, as incapable of saving the union. He would pass by the former without remark, as Mr. Clay had been replied to by several senators. The executive plan could not save the union, because it could not satisfy the south that it could safely or honorably remain in the union. It was a modification of the Wilmot proviso, proposing to effect the same object, the exclusion of the south from the new territory. The executive proviso was more objectionable than the Wilmot. Both inflicted a dangerous wound upon the constitution, by depriving the southern states of equal rights, as joint partners, in these territories; but the former inflicted others equally great. It claimed for the inhabitants the right to legislate for the territories, which belonged to congress. The assumption of this right was utterly unfounded, unconstitutional, and without example. Under this assumed right, the people of California had formed a constitution and a state government, and appointed senators and representatives. If the people, as adventurers, had conquered the territory and established their independence, the sovereignty of the country would have been vested in them. In that case, they would have had the right to form a state government; and afterward they might have applied to congress for admission into the union. But the United States had conquered and acquired California; therefore to them belonged the sovereignty, and the powers of government over the territory. Michigan was the first case of departure from the uniform rule of acting. Hers, however, was a slight departure from established usage. The ordinance of 1787 secured to her the right of becoming a state when she should have 60,000 inhabitants. Congress delayed taking the census. The people became impatient; and after her population had increased to twice that number, they formed a constitution without waiting for the taking of the census; and congress waived the omission, as there was no doubt of the requisite number of inhabitants. In other cases there had existed territorial governments.

It will be readily inferred from these views of Mr. Calhoun, that he was in favor of placing California and other parts of the territory in the territorial condition, under a government established by congress, before their admission as states.

Having shown how the union could not be saved, he then proceeded

to answer the question how it could be saved. There was but one way certain. Justice must be done to the south, by a full and final settlement of all the questions at issue. The north must concede to the south an equal right to the acquired territory, and fulfill the stipulations respecting fugitive slaves; must cease to agitate the slave question, and join in an amendment of the constitution, restoring to the south the power she possessed of protecting herself, before the equilibrium between the two sections had been destroyed by the action of the government.

Mr. Webster, on the 7th of March, spoke at length on the resolutions of Mr. Clay, and in reply to Mr. Calhoun. In the course of his history of the slave question in this country, he remarked, that a change had taken place since the time of the adoption of the constitution. Both sections then held slavery to be equally an evil, moral and political. It was inhuman and cruel; it weakened the social fabric, and rendered labor less productive. The eminent men of the south then held it to be an evil, a blight, a scourge, and a curse. The framers of the constitution, in considering how to deal with it, concluded that it could not be continued if the importation of slaves should cease. The prohibition of the importation after twenty years was proposed; a term which some southern gentlemen, Mr. Madison, for one, thought too long. The word "slaves" was not allowed in the constitution; Mr. Madison was opposed to it; he did not wish to see it recognized in that instrument, that there could be property in men. The ordinance of 1787 also received the unanimous support of the south; a measure which Mr. Calhoun had said was the first in a series of measures which had enfeebled that section.

Soon after this, the age of cotton came. The south wanted land for its cultivation. Mr. Calhoun had observed that there had always been a majority in favor of the north. If so, the north had acted very liberally or very weakly; for they had seldom exercised their power. The truth was, the general lead in politics for three-fourths of the time had been southern lead. In 1802, a great cotton region, now embracing all Alabama, had been obtained from Georgia by the general government. In 1803, Louisiana was purchased, out of which several large slaveholding states had been formed. In 1819, Florida was ceded, which also had come in as slave territory. And lastly, Texas—great, vast, illimitable Texas, had been admitted as a slave state. In this, the senator himself, as secretary of state, and the late secretary of the treasury, then senator, had taken the lead. They had done their work thoroughly; having procured a stipulation for four new states to be formed out of that state; and all south of the line of 36° 30' might be admitted with slavery. Even New England had aided in this measure. Three-fourths of liberty

loving Connecticut in the other house, and one-half in this, had supported it. And it had one vote from each of the states of Massachusetts and Maine.

A part of the remainder of Mr. Webster's speech has been highly disapproved by some of his former friends at the north, as pro-slavery, and inconsistent with his sentiments as previously expressed on the subject. Mr. Webster attributed any supposed discrepancy between his present and former sentiments to a change in the state of the question. He had in 1836 and 1837 publicly expressed himself warmly against the admission of Texas and the extension of slavery. He had nothing to add to, or take back from those sentiments. In 1847, he had made a speech at a whig state convention at Springfield, Massachusetts, in which he said :

" We hear much just now of a *panacea* for the dangers and evils of slavery and slave annexation, which they call the ' Wilmot proviso.' This certainly is a just sentiment, but it is not a sentiment to found any new party upon. It is not a sentiment on which Massachusetts whigs differ. There is not a man in this hall who holds to it more firmly than I do, nor one who adheres to it more than another.

" I feel some little interest in this matter, sir. Did not I commit myself in 1838 to the whole doctrine, fully, entirely? And I must be permitted to say, that I can not quite consent that more recent discoverers should claim the merit, and take out a patent. I deny the priority of their invention. Allow me to say, sir, it is not their thunder. * * * We are to use the first, and last, and every occasion which offers, to oppose the extension of the slave power."

Mr. Webster said he had repeatedly expressed the determination to vote for no acquisition, or cession, or annexation, believing we had territory enough. But Texas was now in with all her territories, as a slave state, with a pledge that, if divided into many states, those south of 36° 30' might come in as slave states; and he, for one, meant to fulfill the obligation. As to California and New Mexico, he held that slavery was effectually excluded from those territories by a law even superior to that which admits and sanctions it in Texas—he meant the law of nature. The physical geography of the country would forever exclude African slavery there; and it needed not the application of a proviso. If the question was now before the senate, he would not vote to add a prohibition—to reëfirm an ordinance of nature, nor reënact the will of God. If they were making a government for New Mexico, and a Wilmot proviso were proposed, he would treat it as Mr. Polk had treated it in the Oregon bill. Mr. Polk was opposed to it; but some government was necessary, and he signed the bill, knowing that the proviso was entirely nugatory.

Both the north and the south had grievances. The south justly complained that individuals and legislatures of the north refused to perform their constitutional duties in regard to returning fugitive slaves. Members of northern legislatures were bound by oath to support the constitution of the United States; and the clause requiring the delivery of fugitive slaves was as binding as any other. Complaints had also been made against certain resolutions emanating from legislatures at the north on the subject of slavery in the district, and sometimes even in regard to its abolition in the states. Abolition societies were another subject of complaint. These societies had done nothing useful; but they had produced mischief by their interference with the south. He referred to the debate in the Virginia legislature in 1832, when the subject of gradual abolition was freely discussed. But since the agitation of this question, the bonds of the slave had been more firmly riveted. Again, the violence of the press was complained of. But wherever the freedom of the press existed, there always would be foolish and violent paragraphs, as there were foolish and violent speeches in both houses of congress. He thought, however, the north had cause for the same complaint of the south. But of these grievances of the south, one only was within the redress of the government; that was the want of proper regard to the constitutional injunction for the delivery of fugitive slaves.

The north complained of the south, that, when the former, in adopting the constitution, recognized the right of representation of the slaves, it was under a state of sentiment different from that which now existed. It was generally hoped and believed, that the institution would be gradually extinguished; instead of which, it was now to be cherished, and preserved, and extended; and for this purpose, the south was constantly demanding new territory. A southern senator had said, that the condition of the slaves was preferable to that of the laboring population of the north. Said Mr. Webster: "Who are the north? Five-sixths of the whole property of the north is in the hands of laborers, who cultivate their own farms, educate their children, and provide the means of independence. Those who were not freeholders, earned wages, which, as they accumulated, were turned into capital."

Another grievance at the north was, that their free colored citizens employed on vessels arriving at southern ports, were taken on shore by the municipal authority, and imprisoned till the vessel was ready to sail. This was inconvenient in practice; and was deemed unjustifiable, oppressive, and unconstitutional. It was a great grievance. So far as these grievances had their foundation in matters of law, they could and ought to be redressed; and so far as they rested in matters of opinion, in mutual crimination and recrimination, we could only endeavor to allay

the agitation, and cultivate a better feeling between the south and the north.

Mr. Webster expressed great pain at hearing secession spoken of as a possible event. Said he: "Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. Who is so foolish—I beg every body's pardon—as to expect to see any such thing? There could be no such thing as peaceable secession—a concurrent agreement of the members of this great republic to separate? Where is the line to be drawn? What states are to secede? Where is the flag of the republic to remain? What is to become of the army?—of the navy?—of the public lands? How is each of the states to defend itself? * * * To break up this great government! to dismember this great country! to astonish Europe with an act of folly, such as Europe for two centuries has never beheld in any government! No, sir! no, sir! There will be no secession. Gentlemen are not serious when they talk of secession."

In regard to Texas, he said, if she should please to cede to the United States any portion of her territory adjacent to New Mexico, north of 34 degrees, to be formed into a free state, for a fair equivalent in money, or in the payment of her debt, he would concur in the measure. He was willing also to appropriate the proceeds of the public lands to defray the expense of promoting the colonization of free colored persons in any part of the world, if the south would propose such a scheme.

On the 13th of February, 1850, the president transmitted to congress, by message, a copy of the constitution of California. Mr. Douglas moved that the message and accompanying documents be referred to the committee on territories. Mr. Foote moved their reference to a special committee of thirteen, "whose duty it should be to consider them, together with the various other propositions before the senate on the same subject, in connection with the question of domestic slavery, and to report a plan for the definitive settlement of the present unhappy controversy, and rescue from impending perils the sacred union itself."

Mr. Clay thought it improper to throw all these subjects before one committee to be acted on together. He wished the question of the admission of California kept separate and distinct. Three or four members of congress had come all the way from the Pacific, with a constitution of a state asking admission into the union; and it was not right to subject them to the delay which would result from the combination of all these subjects. After some discussion, Mr. Benton, on the 14th, moved to amend Mr. Douglas' motion, by adding, "with instructions to report a bill for the admission of the state of California, unconnected with any other subject."

Mr. Badger, of North Carolina, was opposed to the admission of California as a state, organized, as she had been, without the previous authority of congress. Other new states had first been organized as territories. A few other territories, he admitted, had moved in the matter of their admission, and formed state constitutions, without authority from congress; but the cases were different. He was inclined to adhere to established precedents.

Mr. Hale said, as regarded one step in the progress of this question, the senate was not without precedents. It might produce a smile to mention them: they were "Texas" and "Oregon." They went together through the presidential election like the Siamese twins. When these questions came into congress to be settled, the two loving sisters had to be separated; and Oregon had to wait in the cold latitude of $54^{\circ} 40'$, until Texas had been disposed of. He was for first taking care of California by herself, and giving her the entertainment to which she was entitled; then they could turn their attention to New Mexico, and dispose of her; then to Deseret; and then to San Jacinto, because this came next in order.

Mr. Seward was in favor of the admission of California, disconnected from all other questions; and, in a speech of great length, expressed his views upon the several topics embraced in the debate, as well as upon the question of slavery itself. Copious extracts from the speech will constitute a material part of the next chapter.

Among the numerous propositions to dispose of the territorial and slavery questions, in both houses, most of which we can not notice, was a series of resolutions, nine in number, offered in the senate, on the 28th of February, by Mr. Bell, of Tennessee, providing for the future division of Texas, and the admission of the different portions as states. Also, by consent of Texas, that portion of lands claimed by Texas, lying west of the Colorado, and north of the 42d degree of latitude, was to be ceded to the United States for a sum not exceeding ——— millions of dollars. California was to be admitted as a state; but in future, the formation of state constitutions by the inhabitants of the territories was to be regulated by law; and the inhabitants were to have power to settle and adjust all questions of internal state policy, (including, of course, the question of slavery.) The committee on territories to be instructed to bring in a bill in conformity with the spirit of the resolutions.

On the 17th of April, pursuant to a proposition of Mr. Foote, previously made, a select committee of thirteen, (Mr. Clay chairman,) was elected by the senate, to whom were to be referred the compromise resolutions of Mr. Bell, in regard to the slave, California, and territorial

questions. Seven of the committee were from slave states. On the 8th of May, the committee brought in a report. The views and recommendations which it contained, were recapitulated as follows :

1. The admission of any new state or states formed out of Texas, to be postponed until they shall hereafter present themselves to be received into the union, when it will be the duty of congress fairly and faithfully to execute the compact with Texas, by admitting such new state or states.

2. The admission, forthwith, of California into the union, with the boundaries which she has proposed.

3. The establishment of territorial governments, without the Wilmot proviso, for New Mexico and Utah, embracing all the territory recently acquired by the United States from Mexico not contained in the boundaries of California.

4. The combination of these two last mentioned measures in the same bill.

5. The establishment of the western and northern boundary of Texas, and the exclusion from her jurisdiction of all New Mexico, with a grant to Texas of a pecuniary equivalent ; and the section for that purpose to be incorporated in the bill admitting California, and establishing territorial governments for Utah and New Mexico.

6. More effectual enactments of law to secure the prompt delivery of fugitive slaves escaping into the free states.

7. Slavery not to be abolished in the District of Columbia, but the slave trade therein to be prohibited under a heavy penalty.

The object of grouping together so many different subjects in the same report, and the embracing of three—the first three above mentioned—in one bill, was avowedly intended to compel those in favor of admitting California as a free state, to vote for the establishment of the territorial governments without the proviso. To make the admission of a state—a measure to which, of itself, there was no objection—depend upon the adoption of others whose success, upon their own merits, is doubtful, is a proposition which, in the abstract, would find few advocates.

The debate on the compromise bill continued in the senate until the last day of July, having been, in the mean time, trimmed down by amendments, until only a small portion of it remained. From the attempt to carry through so many measures in one bill, the bill had obtained the name of "the omnibus." The other parts of the bill having been successively dropped, it passed the senate only as "a bill to provide for the territorial government of Utah." It was ordered to a third reading, by a vote of 32 to 18, and subsequently passed. It was

sent the next day to the house, where its announcement was received with much merriment; insomuch that the interposition of the speaker became necessary to restore order. The dismemberment of the bill was humorously called "upsetting the omnibus."

Subsequently, however, the other portions of the bill were passed in separate bills. California was admitted; a territorial government bill for New Mexico was passed; and a bill establishing the boundary of Texas. By the offer of \$10,000,000, Texas was induced to relinquish her claims to New Mexico. The bill also to abolish the slave trade in the District of Columbia, and the fugitive slave law, were passed, and became laws.

Senators Benton and Seward were supposed to have contributed much to the defeat of the committee's bill. Mr. Benton exposed the injustice not to say fraud, of the committee, which seems to have been covered in that part of the bill which proposed to settle the boundary of Texas. On the 15th of July, he moved an amendment to that part of the bill, greatly reducing the territory assigned to Texas by the committee. He contended that the committee gave Texas some 70,000 square miles of the territory of New Mexico. He charged upon the committee a design to cede a part of New Mexico to Texas, instead of ascertaining the true line between them; and he reviewed their report to sustain the charge. He also referred to a new map of the state, the accuracy of which had been certified by both the senators of that state, Rusk and Houston, and the two representatives, Kaufman and Pilsbury, besides several state officers, one of whom was the secretary of state. The map was compiled in 1848, the very date of the treaty with Mexico. Holding up the map, he said: "Look at it—it is large enough to be seen across the chamber, and shows objects with sufficient distinctness to be observed by all. Its western limit is the longitude of 102! the very limit I propose, as if I had made the map myself to suit my bill.

* * * Behold it! There is 102 cutting the long blank space marked *El Llano Estacado*, the staked plain; and here are all the breaks in the eastern declivity of that long, broad, and sterile table land, from which issue the thousand little streams which, taking their course toward the rising sun, and gathering themselves into large channels, give birth to all the beautiful rivers of Texas—the Colorado, the Brazos, the Nueces, and the southern forks of the Red river. There they all are! Everything that is Texan by nature or by law! Rivers, towns, counties, all to the east of 102, and all separated from New Mexico by the high desert plain which marks the structure of the country and divides the systems of rivers and of lands from each other."

Mr. B. denounced, in strong terms, the report of the committee, because in it they express no opinion at all. Adopting neither the opinion of those who think the state bounded by the Nueces, nor that of those who think it extends to the Rio Grande, without any regard to what is true or legitimate, they cut New Mexico in two, and give one-half of it to Texas. "Cutting instead of untying the Gordian knot, they take a new course across the Puercos, beginning half way up the Del Norte, cut New Mexico in two just below the hips, giving the lower half to Texas, leaving New Mexico to stump it about as best she can without feet or legs. * * * They give 70,000 square miles to Texas, and offer her \$10,000,000 to accept it!"

According to the committee's report, 70,000 square miles were to be taken from New Mexico, and added to Texas; and 75,000 were to be ceded by Texas to the United States. The territory given to Texas was said to be far more valuable than that which the United States were to receive. Mr. Benton objected to giving two equivalents—an equivalent in land and another in money—for what we received of Texas. He objected to accepting a cession of New Mexico from Texas, first, because the United States herself had a claim to it, and had actual possession; and secondly, because the acceptance of such a cession would admit the title of Texas to all New Mexico east of the Rio Grande, and so raise questions to disturb both New Mexico and the United States; and thirdly, because we offered more valuable territory than we were to receive, and then were to pay the value of what we received, into the bargain, and which was ours before.

Mr. Rusk, in reply to Mr. Benton, admitted the map to be correct, but denied that it limited Texas to the boundaries stated by Mr. B. He said he was willing to settle the controversy, by an act declaring the boundaries of Texas to be as laid down on this map, certified by himself and Gen. Houston, and others: and he proceeded to advocate the right of Texas to all she claimed.

Mr. Clay concurred with Mr. Rusk in relation to the true boundary, and referred to authorities in support of the claims of Texas, and of the bill reported by the committee. He read from Mr. Benton's speech the following remark, to which he took strong exceptions: "The bill is caught, *flagrante delicto*—taken in the fact—seized by the throat and held up to public view—[and here Mr. B. 's represented by the reporter as grappling the bill and holding it up]—in the very act of perpetrating its crime, in the very act of *auctioneering for votes to pass itself*." Mr. Clay thought such language inadmissible upon the floor of the senate. "Auctioneering for votes to carry the bill!" Who auctioneered? the bill, or the senate, or the committee? If the senator meant that it was

the intention of the bill to auctioneer for votes to carry it, he (Mr. C. repelled the charge as a groundless imputation. It might be said of every appropriation of money that the object was to bribe, to auctioneer for votes, or to purchase votes to carry the appropriation.

Mr. Clay then requested the secretary to read a bill introduced by Mr. Benton himself in January, at the same session, proposing to Texas the reduction of her boundaries, and the cession of her extensive territory, for a consideration to be paid her by the United States. In this bill, said Mr. C., was the very same language employed by the committee: "A cession," "a ceding;" for which it was proposed to give Texas \$15,000,000. The proposition made by the senator from Missouri, was therefore liable to the same imputation of being intended to auctioneer for votes. He considered it a degradation to the body to suppose that members could be influenced by an offer of money in the shape of an appropriation for a legitimate purpose.

Mr. Benton, in reply, said Mr. Clay was mistaken in his geography. The United States had not acquired New Mexico by the name of New Mexico. Our acquisitions were not limited to New Mexico, but embraced all the territory belonging to Mexico on this side of the Rio Grande. We took the whole; and this part of Chihuahua was included in the state of Chihuahua as ceded to the United States, as a cession of a part of what was the state of Chihuahua, and not a cession of what was a part of the state of Texas. And what was it, he asked, that lay between New Mexico and Texas? It was Tamaulipas and Coahuila. He said, Mr. C. had occupied himself with the southern line, and had shown the northern boundary, and the southern boundary of Chihuahua down to Durango; but he had said not a word about the eastern boundary, which, after all, was the only line in controversy. He denied that his bill and that of the committee were identical, as Mr. Clay had stated. The latter provided for a mutual cession of territory. The United States ceded to Texas all south of the committee's line, and Texas ceded all north of it to the United States. But his (Mr. B.'s) bill made no cession to Texas at all—not an inch of anything. And in his bill, Texas ceded only such territory as belonged to her, exterior to her boundaries, and nothing more. It neither made a cession of any part of New Mexico to Texas, nor accepted a cession of any part of New Mexico from Texas.

Mr. Benton charged Mr. Clay with unfairness in his quotation from his (Mr. B.'s) remarks in relation to "auctioneering for votes" to pass the compromise bill. He had omitted both what preceded and what followed the words quoted, in respect to which Mr. B. said, if it had been read, it would not have inculpated senators, but would have shown that the imputation was against the bill and not against the senators. And he challenged Mr. Clay to call him to order.

Mr. Clay put in writing the offensive words, and sent them to the chair. Mr. Benton demanded that the previous and concluding parts of the paragraph also be read. He said :

"The words are expressly confined to the bill and its effect; and I have a right to speak of a measure in whatever terms I please. I have nothing to do with the committee. And if it is to be a question between gentlemen of a committee and a member who is speaking every time that a senator characterizes a measure by its effects, and attributes to it injurious or injudicious effects, if that is to be made a question among men, then there is an end of all freedom of debate upon any measure. I knew perfectly well what I said. I knew that I had nothing to do with the committee, but I knew that I had a right to speak of the effect of this bill, and I took this bill, sir, not as it concerned Texas, but as it concerned other measures which were bound up in the same bill with Texas, and whose fate was to depend upon the fate of Texas, and which itself was to depend upon money. I saw a shocking enormity, resulting from the committee's omnibus bill, and was determined to expose it—and have done it.

"The senator from Kentucky has read the bill which I introduced, proposing fifteen millions of dollars to Texas. Sir, is that bill mixed up with any other measure? Was anything tacked to that bill? And was any consequence to result to any measure in the world, except to Texas herself, from the votes which would be given upon that bill? Sir, we know that in voting upon that bill by itself, senators from Texas would vote, and ought to vote according to what was the interest of their state, and would hurt no other measure. Senators from Texas would vote, and ought to vote, for what they might think would be right and proper and necessary to give to Texas, and in so doing it would not affect California, New Mexico, or Utah. Mine was a bill by itself, involving no other measures; but here is a conglomerate bill, in which the life of California is concerned, on which her admission as a state into this union is made dependent upon what happens to Texas. * * *

"Hence, Mr. President—and here is the point of all—I say that, in a measure so large as one admitting a state into the union, and giving a government to territories, these great questions are to be left out of view, and made merely subordinate to another question, and that question is to be the sum of money which is to be voted at the last moment to another and a different state. There lies the pinch; there is the point of my remarks yesterday—the nerve into which my knife entered yesterday, and which the senator from Kentucky so carefully abstains from touching to-day. Do we not all know, sir, that on this bill, called compromise, the senate is about balanced? Do we not all

know that two votes, and they count four—two off and two on—will turn the scale, and that they will make decisive the fate of this conglomerated bill, and that without the least regard to what is to happen to New Mexico or California? They are all tied together, and the whole bill is to pass, or not to pass, precisely according to the amount of money paid to Texas. Don't we know this? Don't we see it? Does not every body see it? And does it not present one of the most flagrant instances of the enormity of joining incongruous matters that the history of all legislation has ever presented to the world?

"The senator from Kentucky (Mr. Clay) is deeply penetrated with a sense of injury to himself, the committee of thirteen, and the senate, from what I said yesterday. He characterizes it as an aspersion upon them. In that he turns off the contest from the true point. I made no allusion to him, or the committee. I spoke of their bill—their omnibus bill—and its effect—its shocking, revolting effect. I struck there, and I challenge a contest there. * * *

"I said that those who were anxious for the passage of the whole conglomerated measure, must, upon every principle of human action, vote the sum necessary to command the Texas vote—vote the millions so carefully concealed here, and so well known elsewhere. It can not be a question with them how much it was right and proper to pay to Texas, but how much will command the vote of Texas? To secure the vote of Texas on this floor is what they are obliged to do on every principle of human action. This is certainly voting on a vicious principle. * * * I admit that, by voting to put nothing there, I am voting viciously. But where lies the blame? It lies in the position that I am forced to take, in the false position in which I am placed, where I must vote money to a third party in order to carry a measure for three other parties; I must either sanction a great parliamentary enormity, or rebuke it. I will not bring in California by money to Texas. I will not vote the money. I will not bid. I shall vote not a farthing to Texas, as well because she gets land enough without money, as because of the bill itself, and because I believe purity of legislation requires such a bill to receive the condemnation of the senate and the country. I shall vote nothing. And then what a scene we shall have in the American senate. Some voting a high amount to carry the vote of Texas; some voting a low amount in order to prevent it. That is the position, and that is the scene which the senate will exhibit; real jockey voting, to command two votes, and without the least regard to the amount that ought really to be voted; no party having any regard to what in justice and right should be paid to Texas. And why all this? Because of unparliamentary tacking; because of putting incongruous measures together."

In the midst of the discussion of this question, the death of President Taylor took place. This event occurred on the 9th of July, 1850, a year and four months after his inauguration. The shock upon the public mind produced by this sudden calamity, was similar to that experienced in 1841, on the occasion of the death of President Harrison. Expressions of sincere and deep regret from all parts of the union, bore testimony to the high estimation in which Gen. Taylor was held by all parties and all classes of the people. On the 10th, Mr. Fillmore, in a message to both houses of congress, and in appropriate terms, announced the death of the president, and proposed to take the oath of office as president that day at 12 o'clock, in the presence of both houses of congress. Brief eulogies on the late president were pronounced in the senate by Messrs. Downs, of Louisiana, Webster, Cass, Pearce, of Maryland, King, of Alabama, and Berrien, of Georgia. In the house, the same office was performed by Messrs. Conrad, of Louisiana, Winthrop, Baker, of Illinois, Bayly, of Virginia, Hilliard, of Alabama, John A. King, of New York, McLane, of Maryland, and Humphrey Marshall, of Kentucky.

The remains of Gen. Taylor were interred in the congressional burial ground at Washington. They were subsequently taken up and conveyed to Louisville, Kentucky; and thence to the place of their final interment, seven miles from the city, which had been selected by himself as a family burial place. It is upon a farm formerly owned by his father, and still owned by the heirs of his deceased brother, Hancock Taylor, Esq.

Mr. Fillmore having become president, Mr. King, of Alabama, was chosen president of the senate, *pro tem.*, July 11th.

A few days afterward, Mr. Fillmore reconstructed the cabinet. Daniel Webster was appointed secretary of state; Thomas Corwin, of Ohio, secretary of the treasury; Charles M. Conrad, of Louisiana, secretary of war; William A. Graham, secretary of the navy; Alexander H. H. Stuart, of Pennsylvania, secretary of the interior; Nathan K. Hall, of New York, postmaster-general; John J. Crittenden, of Kentucky, attorney-general.

The passage of the Texan boundary bill was accelerated by a message from the president, (August 6th,) transmitting to the senate a copy of a letter from Governor Bell, of Texas, addressed to the late president, complaining that the state commissioner, in attempting to extend civil jurisdiction over the unorganized counties, had encountered opposition from the military officers employed in the service of the United States, stationed at Santa Fe. And he wished to be informed whether the issuing of a proclamation by Col. John Monroe, the civil and military commander of the territory, had been done under the orders of the govern-

ment, or with the approval of the president. Gov. Bell was informed that, in November, orders had been given not to thwart any manifestations of the people of New Mexico in favor of forming a state constitution. Such action was a mere nullity until sanctioned by congress, and whether approved by congress or not, it could not prejudice the territorial claims of Texas. The late president, it was believed, had desired to manifest no unfriendly attitude or aspect towards Texas or her claims; and the present executive certainly did not wish to interfere with that question, as a question of title.

In his message of the 6th of August, the president declares his determination to maintain the existing order of things in New Mexico. He would protect the inhabitants in the enjoyment of their liberty and property, within the territory possessed and occupied by them as New Mexico at the date of the treaty, until a definite boundary should be established. And he recommended to congress a speedy settlement of the question of boundary.

On the 13th of August, the governor, in his message to the legislature, which he had convened in extra session, expressed his repugnance to any compromise of the boundary of Texas on the part of congress, without her consent, and evinced a disposition to resist by force any infringement of her territorial rights. The people of the state appearing determined to stand by their executive, a collision between the two powers, state and federal, was for a short time apprehended.

A few days after the passage of the Utah territorial bill, Mr. Pearce, on the 5th of August, introduced into the senate a bill defining the boundaries of the state, ceding to the United States all her claim to territory exterior to these boundaries, and relinquishing all claims upon the United States for liability for the debts of Texas, and for compensation or indemnity for the surrender of her ships, forts, custom-houses, revenue, and other public property; in consideration of all of which the United States agreed to pay \$10,000,000. The existing crisis demanded prompt action; and the bill was passed by the two houses on the days and in the manner already stated.

The passage of the Utah territorial bill—all that remained of the "omnibus" bill—on the last day of July, and the subsequent passage, separately, of its other parts, have been mentioned. The Texas boundary bill passed the senate the 10th of August, by a vote of 30 to 20; and on the 14th, the bill to organize the territory of New Mexico passed the same body, 27 to 10. In the house these two bills were united, and passed September 6th, 107 to 97; and in this action of the house, the senate concurred. Before the passage of the bill, however, a proviso was added, that nothing in the bill should impair the joint resolution of

1845 for annexing Texas "either as regards the number of states that might be formed out of the state of Texas, or otherwise."

The bill to admit California as a state, passed the senate, August 13th, 34 to 18; the house, September 17th, 150 to 56.

The fugitive slave bill passed the senate August 23d, by a vote of 27 to 12. In the house, the bill was passed under the action of the previous question, without debate, 109 to 75.

The remaining bill was that for abolishing the slave trade in the District of Columbia; for which Mr. Seward proposed a substitute abolishing *slavery* itself in the district. The proposition, after a speech in its favor, was rejected; ayes, 5; noes, 46. On the 14th of September, the bill passed the senate, 33 to 19; and on the 17th it passed the house, 124 to 59.

The debates upon these bills, especially the fugitive slave bill, in both houses, were animated and of great interest; but the appropriation of the liberal space already assigned to this discussion, forbids its farther extension.

The compromise acts were the principal measures adopted at this very long session. At the next session, also, (1850-51,) although several important measures in both houses made considerable progress, few of them became laws. Perhaps the act of the most general interest was the existing postage law, reducing the rates of postage to three cents on prepaid single letters, for a distance of 3,000 miles and five cents if not prepaid; and double these rates for any greater distance.

CHAPTER LXXIII.

THE COMPROMISE OF 1850, CONTINUED.—SPEECHES OF MESSRS. SEWARD AND CASS.

In the senate, on the 11th of March, 1850, the president's message transmitting the constitution of the state of California being under consideration, Mr. Seward addressed the senate in a speech of about three hours. As Mr. S. touched upon all the principal topics embraced in the general question of slavery as presented at this session, and as the subject is one of immense and lasting importance to the union, it is thought proper to transfer to our pages a large portion of the speech, as follows:—

SHALL CALIFORNIA BE RECEIVED? For myself, upon my individual judgment and conscience, I answer, Yes. For myself, as an instructed representative of one of the states, of that one even of the states which is soonest and longest to be pressed in commercial and political rivalry by the new commonwealth, I answer, Yes. Let California come in. Every new state, whether she come from the east or from the west, every new state, coming from whatever part of the continent she may, is always welcome. (But California, that comes from the clime where the west dies away into the rising east; California, that bounds at once the empire and the continent; California, the youthful queen of the Pacific, in her robes of freedom, gorgeously inlaid with gold—is doubly welcome.)

And now I inquire, first, *Why should California be rejected?* All the objections are founded only in the circumstances of her coming, and in the organic law which she presents for our confirmation.

1st. California comes UNCEREMONIOUSLY, without a *preliminary* consent of congress, and therefore by usurpation. This allegation, I think, is not quite true; at least, not quite true in spirit. California is here not of her own pure volition. We tore California and New Mexico violently from their places in the confederation of Mexican states, and stipulated, by the treaty of Guadalupe Hidalgo, that the territories thus acquired should be admitted as states into the American union as speedily as possible. But the letter of the objection still holds. California does come without having obtained a preliminary consent of congress to form a constitution. But Michigan and other states presented themselves in the same unauthorized way, and congress *waived the irregularity*, and sanctioned the usurpation. California pleads these precedents. Is not the plea sufficient?

But it has been said by the honorable senator from South Carolina, (Mr. Calhoun,) that the ordinance of 1787 secured to Michigan the right to become a state, when she should have sixty thousand inhabitants, and that, owing to some neglect, congress delayed taking the census. This is said in palliation of the irregularity of Michigan. But California, as has been seen, had a treaty, and congress, instead of giving previous consent, and instead of giving her the customary territorial government, as they did to Michigan, failed to do either, and thus practically refused both, and so abandoned the new community, under most unpropitious circumstances, to anarchy. California then made a constitution for herself, but not unnecessarily and presumptuously, as Michigan did. She made a constitution for herself, and she comes here under the law, the paramount law, of self-preservation.

In that she stands justified. Indeed, California is more than justified. She was a *colony*, a *military colony*. All colonies, especially military

colonies, are incongruous with our political system, and they are equally open to corruption and exposed to oppression. They are, therefore, not more unfortunate in their own proper condition than fruitful of dangers to the parent democracy. California, then, acted wisely and well in establishing self-government. She deserves not rebuke, but praise and approbation. Nor does this objection come with a good grace from those who offer it. If California were now content to receive only a territorial charter, we could not agree to grant it without an inhibition of slavery, which, in that case, being a federal act, would render the attitude of California, as a territory, even more offensive to those who now repel her than she is as a state, with the same inhibition in the constitution of her own voluntary choice.

A second objection is, that *California has assigned her own boundaries without the previous authority of congress*. But she was left to organize herself without any boundaries fixed by previous law or by prescription. She was obliged, therefore, to assume boundaries, since without boundaries she must have remained unorganized.

A third objection is, that *California is too large*. I answer, first, there is no common standard of states. California, although greater than many, is less than one of the states. Secondly. California, if too large, may be divided with her own consent, and a similar provision is all the security we have for reducing the magnitude and averting the preponderance of Texas. Thirdly. The boundaries of California seem not at all *unnatural*. The territory circumscribed is altogether contiguous and compact. Fourthly. The boundaries are *convenient*. They embrace only inhabited portions of the country, commercially connected with the port of San Francisco. No one has pretended to offer boundaries more in harmony with the physical outlines of the region concerned, or more convenient for civil administration.

But to draw closer to the question, What shall be the boundaries of a new state? concerns—

First. The state herself; and California, of course, is content.

Secondly. Adjacent communities; Oregon does not complain of encroachment, and there is no other adjacent community to complain.

Thirdly. The other states of the union; the larger the Pacific states, the smaller will be their relative power in the senate. All the states now here are either Atlantic states or inland states, and surely they may well indulge California in the largest liberty of boundaries.

The fourth objection to the admission of California is, that no census had been taken, and no laws prescribing the qualifications of suffrage and the apportionment of representatives in convention, existed before her convention was held. I answer, California was left to act *ab initio*

She must begin somewhere, without a census, and without such laws. The pilgrim fathers began in the same way on board the *Mayflower*; and, since it has been objected that some of the electors in California may have been aliens, I add, that all of the pilgrim fathers were aliens and strangers to the commonwealth of Plymouth.

Again, the objection may well be *waived*, if the constitution of California is satisfactory, first to herself, secondly to the United States.

Not a murmur of discontent has followed California to this place.

As to ourselves, we confine our inquiries about the constitution of a new state to four things—

1st. The *boundaries* assumed; and I have considered that point in this case already.

2d. That the domain within the state is secured to us; and it is admitted that this has been properly done.

3d. That the constitution shall be republican, and not aristocratic and monarchical. In this case, the only objection is, that the constitution, inasmuch as it inhibits slavery, is altogether too republican.

4th. That the representation claimed shall be just and equal. No one denies that the population of California is sufficient to demand two representatives on the federal basis; and, secondly, a new census is at hand, and the error, if there is one, will be immediately corrected.

The fifth objection is, that *California comes under executive influence*. 1st. In her coming as a free state. 2d. In her coming at all.

The first charge rests on suspicion only, and is peremptorily denied, and the denial is not controverted by proofs. I dismiss it altogether. The second is true, to the extent that the president advised the people of California, that, having been left without any civil government, under the military supervision of the executive, without any authority of law whatever, their adoption of a constitution, subject to the approval of congress, would be regarded favorably by the president. Only a year ago, it was complained that the exercise of the military power to maintain law and order in California, was a fearful innovation. But now the wind has changed, and blows even stronger from the opposite quarter. May this republic never have a president commit a more serious or more dangerous usurpation of power than the act of the present eminent chief magistrate, in endeavoring to induce legislative authority to relieve him from the exercise of military power, by establishing civil institutions regulated by law in distant provinces! Rome would have been standing this day, if she had had only such generals and such consuls.

But the objection, whether true in part, or even in the whole, is immaterial. The question is, not what moved California to impress any particular feature on her constitution, nor even what induced her to

adopt a constitution at all; but it is whether, since she has adopted a constitution, she shall be admitted into the union.

I have now reviewed all the objections raised against the admission of California. It is seen that they have no foundation in the law of nature and of nations. Nor are they founded in the constitution, for the constitution prescribes no form or manner of proceeding in the admission of new states, but leaves the whole to the discretion of congress. "Congress may admit new states." The objections are all merely formal and technical. They rest on precedents which have not always, nor even generally, been observed. But it is said that we ought now to establish a safe precedent for the future.

I answer, 1st: It is too late to seize this occasion for that purpose. The irregularities complained of being unavoidable, the caution should have been exercised when, 1st, Texas was annexed; 2d, when we waged war against Mexico; or, 3d, when we ratified the treaty of Guadalupe Hidalgo.

I answer, 2d: We may establish precedents at pleasure. Our successors will exercise *their* pleasure about following them, just as we have done in such cases.

I answer, 3d: States, nations, and empires, are apt to be peculiarly capricious, not only as to the *time*, but even as to the *manner*, of their being born, and as to their subsequent political changes. They are not accustomed to conform to precedents. California sprang from the head of the nation, not only complete in proportions and full armed, but ripe for affiliation with its members. * * *

But it is insisted that the admission of California shall be attended by a *compromise* of questions which have arisen out of *slavery*!

I am opposed to any such compromise, in any and all the forms in which it has been proposed; because, while admitting the purity and the patriotism of all from whom it is my misfortune to differ, I think all legislative compromises, which are not absolutely necessary, radically wrong and essentially vicious. They involve the surrender of the exercise of judgment and conscience on distinct and separate questions, at distinct and separate times, with the indispensable advantages it affords for ascertaining truth. They involve a relinquishment of the right to reconsider in future the decisions of the present, on questions prematurely anticipated. And they are acts of usurpation as to future questions of the province of future legislators.

Sir, it seems to me as if slavery had laid its paralyzing hand upon myself, and the blood were coursing less freely than its wont through my veins, when I endeavor to suppose that such a compromise has been effected, and that my utterance for ever is arrested upon all the great

questions—social, moral, and political—arising out of a subject so important, and as yet so incomprehensible.

What am I to receive in this compromise? Freedom in California. It is well; it is a noble acquisition; it is worth a sacrifice. But what am I to give as an equivalent? A recognition of the claim to perpetuate slavery in the District of Columbia; forbearance toward more stringent laws concerning the arrest of persons suspected of being slaves found in the free states; forbearance from the *proviso* of freedom in the charters of new territories. None of the plans of compromise offered demand less than two, and most of them insist on all of these conditions. The equivalent, then, is, some portion of liberty, some portion of human rights in one region for liberty in another region. But California brings gold and commerce as well as freedom. I am, then, to surrender some portion of human freedom in the District of Columbia, and in East California and New Mexico, for the mixed consideration of liberty, gold, and power, on the Pacific coast. * * *

But, sir, if I could overcome my repugnance to compromises in general, I should object to this one, on the ground of the *inequality* and *incongruity* of the interests to be compromised. Why, sir, according to the views I have submitted, California ought to come in, and must come in, whether slavery stand or fall in the District of Columbia; whether slavery stand or fall in New Mexico and Eastern California; and even whether slavery stand or fall in the slave states. California ought to come in, being a free state; and, under the circumstances of her conquest, her compact, her abandonment, her justifiable and necessary establishment of a constitution, and the inevitable dismemberment of the empire consequent upon her rejection, I should have voted for her admission even if she had come as a slave state. California ought to come in, and must come in at all events. It is, then, an independent, a paramount question. What, then, are these questions arising out of slavery, thus interposed, but collateral questions? They are unnecessary and incongruous, and therefore false issues, not introduced designedly, indeed, to defeat that great policy, yet unavoidably tending to that end.

Mr. FOOTE. Will the honorable senator allow me to ask him, if the senate is to understand him as saying that he would vote for the admission of California if she came here seeking admission as a slave state?

Mr. SEWARD. I reply, as I said before, that even if California had come as a slave state, yet coming under the extraordinary circumstances I have described, and in view of the consequences of a dismemberment of the empire, consequent upon her rejection, I should have voted for her admission, even though she had come as a slave state. But I should not have voted for her admission otherwise.

I remark in the next place, that consent on my part would be disingenuous and fraudulent, because the compromise would be unavailing.

It is now avowed by the honorable senator from South Carolina, (Mr. Calhoun,) that nothing will satisfy the slave states but a compromise that will convince them that they can remain in the union consistently with their honor and their safety. And what are the concessions which will have that effect? Here they are, in the words of that senator:—

“The North must do justice by conceding to the South an equal right in the acquired territory, and do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled—cease the agitation of the slave question—and provide for the insertion of a provision in the constitution, by an amendment, which will restore to the South in substance the power she possessed, of protecting herself, before the equilibrium between the sections was destroyed by the action of this government.”

These terms amount to this: that the free states having already, or although they may hereafter have, majorities of population, and majorities in both houses of congress, shall concede to the slave states, being in a minority in both, the unequal advantage of an equality. That is, that we shall alter the constitution so as to convert the government from a national democracy, operating by a constitutional majority of voices, into a federal alliance, in which the minority shall have a veto against the majority. And this would be nothing less than to return to the original articles of confederation. * * *

Nor would success attend any of the details of this compromise. And, first, I advert to the proposed alteration of the law concerning fugitives from service or labor. I shall speak on this, as on all subjects, with due respect, but yet frankly, and without reservation. The constitution contains only a compact, which rests for its execution on the states. Not content with this, the slave states induced legislation by congress; and the supreme court of the United States have virtually decided that the whole subject is within the province of congress, and exclusive of state authority. Nay, they have decided that slaves are to be regarded, not merely as persons to be claimed, but as property and chattels, to be seized without any legal authority or claim whatever. The compact is thus subverted by the procurement of the slave states. With what reason, then, can they expect the states *ex gratia* to reassume the obligations from which they caused those states to be discharged? I say, then, to the slave states, you are entitled to no more stringent laws; and that such laws would be useless. The cause of the inefficiency of the present statute is not at all the leniency of its provisions. It is a law that deprives the alleged refugee from a legal obligation not assumed

by him, but imposed upon him by laws enacted before he was born, of the writ of *habeas corpus*; and of any certain judicial process of examination of the claim set up by his pursuer, and finally degrades him into a chattel which may be seized and carried away peaceably wherever found, even although exercising the rights and responsibilities of a free citizen of the commonwealth in which he resides, and of the United States—a law which denies to the citizen all the safeguards of personal liberty, to render less frequent the escape of the bondman. And since complaints are so freely made against the one side, I shall not hesitate to declare that there have been even greater faults on the other side. Relying on the perversion of the constitution which makes slaves mere chattels, the slave states have applied to them the principles of the criminal law, and have held that he who aided the escape of his fellow-man from bondage was guilty of a larceny in stealing him. I speak of what I know. Two instances came within my own knowledge, in which governors of slave states, under the provision of the constitution relating to fugitives from justice, demanded from the governor of a free state the surrender of persons as thieves whose alleged offenses consisted in constructive larceny of the rags that covered the persons of female slaves, whose attempt at escape they permitted or assisted.

We deem the principle of the law for the recapture of fugitives, as thus expounded, therefore, unjust, unconstitutional, and immoral; and thus, while patriotism withholds its approbation, the consciences of our people condemn it. * * *

Another feature in most of these plans of compromise is a bill of peace for slavery in the District of Columbia; and this bill of peace we cannot grant. We of the free states are, equally with you of the slave states, responsible for the existence of slavery in this district, the field exclusively of our common legislation. I regret that, as yet, I see little reason to hope that a majority in favor of emancipation exists here. The legislature of New York—from whom, with great deference, I dissent—seems willing to accept now the extinction of the slave trade, and waive emancipation. But we shall assume the whole responsibility, if we stipulate not to exercise the power hereafter when a majority shall be obtained. Nor will the plea with which you would furnish us be of any avail. If I could understand so mysterious a paradox myself, I never should be able to explain, to the apprehension of the people whom I represent, how it was that an absolute and express power to legislate in all cases over the District of Columbia, was embarrassed and defeated by an implied condition not to legislate for the abolition of slavery in this district. Sir, I shall vote for that measure, and am willing to appropriate any means necessary to carry it into execution. And, if I

shall be asked what I did to embellish the capital of my country, I will point to her freedmen, and say, these are the monuments of my munificence! * * *

I come now to notice the suggested *compromise of the boundary between Texas and New Mexico*. This is a judicial question in its nature, or at least a question of legal right and title. If it is to be compromised at all, it is due to the two parties, and to national dignity as well as to justice, that it be kept separate from compromises proceeding on the ground of expediency, and be settled by itself alone.

I take this occasion to say, that while I do not intend to discuss the questions alluded to in this connection by the honorable and distinguished senator from Massachusetts, I am not able to agree with him in regard to the alleged obligation of congress to admit four new slave states, to be formed in the state of Texas. There are several questions arising out of that subject, upon which I am not prepared to decide now, and which I desire to reserve for future consideration. One of these is, whether the article of annexation does really deprive congress of the right to exercise its choice in regard to the subdivision of Texas into four additional states. It seems to me by no means so plain a question as the senator from Massachusetts assumed, and that it must be left to remain an open question, as it is a great question, whether congress is not a party whose future consent is necessary to the formation of new states out of Texas.

Mr. WEBSTER. Supposing congress to have the authority to fix the number, and time of election, and apportionment of representatives, &c., the question is, whether, if new states are formed out of Texas, to come into this union, there is not a solemn pledge by law that they have a right to come in as slave states?

Mr. SEWARD. When the states are once formed, they have the right to come in as free or slave states, according to their own choice; but what I insist is, that they cannot be formed at all without the consent of congress, to be hereafter given, which consent congress is not obliged to give. But I pass that question for the present, and proceed to say that I am not prepared to admit that the article of the annexation of Texas is itself constitutional. I find no authority in the constitution of the United States for the annexation of foreign countries by a resolution of congress, and no power adequate to that purpose but the treaty-making power of the president and the senate. Entertaining this view, I must insist that the constitutionality of the annexation of Texas itself shall be cleared up before I can agree to the admission of any new states to be formed within Texas.

Mr. FOOTE. Did I not hear the senator observe that he would admit

California, whether slavery was or was not precluded from these territories?

Mr. SEWARD. I said I would have voted for the admission of California even as a slave state, under the extraordinary circumstances which I have before distinctly described. I say that now; but I say also, that before I would agree to admit any more states from Texas, the circumstances which render such an act necessary must be shown, and must be such as to determine my obligation to do so; and that is precisely what I insist cannot be settled now. It must be left for those to whom the responsibility will belong.

Mr. President, I understand, and I am happy in understanding, that I agree with the honorable senator from Massachusetts, that there is no obligation upon congress to admit four new slave states out of Texas, but that congress has reserved her right to say whether those states shall be formed and admitted or not. I shall rely on that reservation. I shall vote to admit no more slave states, unless under circumstances absolutely compulsory—and no such case is now foreseen.

Mr. WEBSTER. What I said was, that if the states hereafter to be made out of Texas choose to come in as slave states, they have a right so to do.

Mr. SEWARD. My position is, that they have not a right to come in at all, if congress rejects their institutions. The subdivision of Texas is a matter optional with both parties, Texas and the United States.

Mr. WEBSTER. Does the honorable senator mean to say that congress can hereafter decide whether they shall be slave or free states?

Mr. SEWARD. I mean to say that congress can hereafter decide whether any states, slave or free, can be framed out of Texas. If they should never be framed out of Texas, they never could be admitted.

Another objection arises out of the principle on which the demand for compromise rests. That principle assumes a classification of the states as northern and southern states, as it is expressed by the honorable senator from South Carolina, (Mr. Calhoun,) but into slave states and free states, as more directly expressed by the honorable senator from Georgia, (Mr. Berrien). The argument is, that the states are severally equal, and that these two classes were equal at the first, and that the constitution was founded on that equilibrium; that the states being equal, and the classes of the states being equal in rights, they are to be regarded as constituting an association in which each state, and each of these classes of states, respectively, contribute in due proportions; that the new territories are a common acquisition, and the people of these several states and classes of states have an equal right to participate in them, respectively; that the right of the people of the slave states to

emigrate to the territories with their slaves as property is necessary to afford such a participation on their part, inasmuch as the people of the free states emigrate into the same territories with their property. And the argument deduces from this right the principle that, if congress exclude slavery from any part of this new domain, it would be only just to set off a portion of the domain—some say south of 36 deg. 30 min., others south of 34 deg.—which should be regarded at least as free to slavery, and to be organized into slave states.

Argument ingenious and subtle, declamation earnest and bold, and persuasion gentle and winning as the voice of the turtle dove when it is heard in the land, all alike and altogether have failed to convince me of the soundness of this principle of the proposed compromise, or of any one of the propositions on which it is attempted to be established. * * *

The constitution does not *expressly* affirm anything on the subject; all that it contains is two incidental allusions to slaves. These are, first, in the provision establishing a ratio of representation and taxation; and, secondly, in the provision relating to fugitives from labor. In both cases, the constitution designedly mentions slaves, not as slaves, much less as chattels, but as *persons*. That this recognition of them as persons was designed is historically known, and I think was never denied. I give only two of the manifold proofs. First, John Jay, in the *Federalist*, says :

“ Let the case of the slaves be considered, as it is in truth, a peculiar one. Let the compromising expedient of the constitution be mutually adopted which regards them as *inhabitants*, but as debased below the equal level of free inhabitants, which regards the slave as divested of two-fifths of the man.”

Yes, sir, of two-fifths, but of only two-fifths; leaving still three-fifths; leaving the slave still an *inhabitant*, a person, a living, breathing, moving, reasoning, immortal man.

The other proof is from the debates in the convention. It is brief, and I think instructive:

“ AUGUST, 28, 1787.

“ Mr. Butler and Mr. Pinckney moved to require fugitive slaves and servants to be delivered up like convicts.

“ Mr. Wilson. This would oblige the executive of the state to do it at public expence.

“ Mr. Sherman saw no more propriety in the public seizing and surrendering a slave or a servant than a horse.

Mr. Butler withdrew his proposition, in order that some particular provision might be made, apart from this article.”

" AUGUST 29, 1787.

" Mr. Butler moved to insert after article 15 : ' If any person bound to service or labor in any of the United States shall escape into another state, he or she shall not be discharged from such service or labor in consequence of any regulation subsisting in the state to which they escape, but shall be delivered up to the person justly claiming their service or labor.' "

" After the engrossment, September 15, page 550, article 4, section 2, the third paragraph, the term ' legally ' was struck out; and the words ' under the laws thereof ' inserted after the word ' state,' in compliance with the wishes of some who thought the term ' legal ' equivocal, and favoring the idea that slavery was legal in a *moral view*."—*Madison Debates*, pp. 487, 492.

I deem it established, then, that the constitution does not recognize property in man, but leaves that question, as between the states, to the law of nature and of nations. That law, as expounded by Vattel, is founded on the reason of things. When God had created the earth, with its wonderful adaptations, He gave dominion over it to man, absolute human dominion. The title of that dominion, thus bestowed, would have been incomplete, if the Lord of all terrestrial things could himself have been the property of his fellow-man. * * *

But there is yet another aspect in which this principle must be examined. It regards the domain only as a possession, to be enjoyed either in common or by partition by the citizens of the old states. It is true, indeed, that the national domain is ours. It is true it was acquired by the valor and with the wealth of the whole nation. But we hold no arbitrary authority over it. We hold no arbitrary authority over anything, whether acquired lawfully or seized by usurpation. The constitution regulates our stewardship; the constitution devotes the domain to union, to justice, to defense, to welfare, and to liberty.

But there is a higher law than the constitution, which regulates our authority over the domain, and devotes it to the same noble purposes. The territory is a part, no inconsiderable part, of the common heritage of mankind, bestowed upon them by the Creator of the Universe. We are his stewards, and must so discharge our trust as to secure in the highest attainable degree their happiness. * * *

It remains only to remark that our own experience has proved the dangerous influence and tendency of slavery. All our apprehensions of dangers, present and future, begin and end with slavery. If slavery, limited as it yet is, now threatens to subvert the constitution, how can we, as wise and prudent statesmen, enlarge its boundaries and increase its influence and thus increase already impending dangers? Whether

then, I regard merely the welfare of the future inhabitants of the new territories, or the security and welfare of the whole people of the United States, or the welfare of the whole family of mankind, I cannot consent to introduce slavery into any part of this continent which is now exempt from what seems to me so great an evil. These are my reasons for declining to compromise the question relating to slavery as a condition of the admission of California.

In acting upon an occasion so grave as this, a respectful consideration is due to the arguments, founded on extraneous considerations, of senators who commend a course different from that which I have preferred. The first of these arguments is, that congress has no power to legislate on the subject of slavery within the territories.

Sir, congress *may* admit new states; and since congress may admit, it follows that congress may *reject* new states. The discretion of congress in admitting is absolute, except that, when admitted, the state must be a republican state, and must be a STATE: that is, it shall have the constitutional form and powers of a state. But the greater includes the less, and therefore congress may impose *conditions* of admission not inconsistent with those fundamental powers and forms. Boundaries are such. The reservation of the public domain is such. The right to divide is such. The ordinance excluding slavery is such a condition. The organization of a territory is ancillary or preliminary; it is the inchoate, the *initiative* act of admission, and is performed under the clause granting the powers necessary to execute the express powers of the constitution.

This power comes from the treaty-making power also, and I think it well traced to the power to make needful rules and regulations concerning the public domain. But this question is not a material one now; the power is here to be exercised. The question now is, *How* is it to be exercised? not whether we shall exercise it at all, however derived. And the right to regulate property, to administer justice in regard to *property*, is *assumed* in every territorial charter. If we have the power to legislate concerning property, we have the power to legislate concerning personal rights. Freedom is a *personal* right; and congress, being the supreme legislature, has the same right in regard to property and personal rights in territories that the states would have if organized.

The next of this class of arguments is, that the inhibition of slavery in the new territories is *unnecessary*; and when I come to this question, I encounter the loss of many who lead in favor of admitting California

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The argument is, that the *proviso is unnecessary*. I answer, then,

there can be no error in insisting upon it. But why is it unnecessary? It is said, *first*, by reason of *climate*. I answer, if this be so, why do not the representatives of the slave states concede the proviso? They deny that the climate prevents the introduction of slavery. Then I will leave nothing to a contingency. But, in truth, I think the weight of argument is against the proposition. Is there any climate where slavery has not existed? It has prevailed all over Europe, from sunny Italy to bleak England, and is existing now, stronger than in any other land, in ice-bound Russia. But it will be replied, that this is not African slavery. I rejoin, that only makes the case the stronger. If this vigorous Saxon race of ours was reduced to slavery while it retained the courage of semi-barbarism in its own high northern latitude, what security does climate afford against the transplantation of the more gentle, more docile, and already enslaved and debased African to the genial climate of New Mexico and Eastern California?

Sir, there is no climate uncongenial to slavery. It is true it is less productive than free labor in many northern countries. But so it is less productive than free white labor in even tropical climates. Labor is in quick demand in all new countries. Slave labor is cheaper than free labor, and it would go first into new regions; and wherever it goes it brings labor into dishonor, and therefore free white labor avoids competition with it. Sir, I might rely on climate if I had not been born in a land where slavery existed—and this land was all of it north of the fortieth parallel of latitude; and if I did not know the struggle it has cost, and which is yet going on, to get complete relief from the institution and its baleful consequences. I desire to propound this question to those who are now in favor of dispensing with the Wilmot proviso: Was the ordinance of 1787 necessary or not? Necessary, we all agree. It has received too many elaborate eulogiums to be now decried as an idle and superfluous thing. And yet that ordinance extended the inhibition of slavery from the thirty-seventh to the fortieth parallel of north latitude. And now we are told that the inhibition named is unnecessary anywhere north of 36 deg. 30 min. ! We are told that we may rely upon the laws of God, which prohibit slave labor north of that line, and that it is absurd to reënact the laws of God. Sir, there is no human enactment which is just that is not a reënactment of the law of God. The constitution of the United States and the constitutions of all the states are full of such reënactments. Wherever I find a law of God or a law of nature disregarded, or in danger of being disregarded, there I shall vote to reaffirm it, with all the sanction of the civil authority. But I find no authority for the position that climate prevents slavery anywhere. It is the indolence of mankind in any climate, and not any natural necessity, that introduces slavery in any climate. * * *

It is insisted that the diffusion of slavery will not increase its evils. The argument seems to me merely specious, and quite unsound. I desire to propose one or two questions in reply to it. Is slavery stronger or weaker in these United States, from its diffusion into Missouri? Is slavery weaker or stronger in these United States, from the exclusion of it from the northwest territory? The answers to these questions will settle the whole controversy.

And this brings me to the great and all-absorbing argument that the union is in danger of being dissolved, and that it can only be saved by compromise. I do not know what I would not do to save the union; and therefore I shall bestow upon this subject a very deliberate consideration.

I do not overlook the fact that the entire delegation from the slave states, although they differ in regard to the details of the compromise proposed, and perhaps in regard to the exact circumstances of the crisis, seem to concur in this momentous warning. Nor do I doubt at all the patriotic devotion to the union which is expressed by those from whom this warning proceeds. And yet, sir, although such warnings have been uttered with impassioned solemnity in my hearing every day for near three months, my confidence in the union remains unshaken. I think they are to be received with no inconsiderable distrust, because they are uttered under the influence of a controlling interest to be secured, a paramount object to be gained; and that is an equilibrium of power in the Republic. * * *

Sir, in any condition of society there can be no revolution without a cause, an adequate cause. What cause exists here? We are admitting a new state; but there is nothing new in that: we have already admitted seventeen before. But it is said that the slave states are in danger of losing political power by the admission of the new state. Well, sir, is there anything new in that? The slave states have always been losing political power, and they always will be while they have any to lose. At first, twelve of the thirteen states were slave states; now only fifteen out of the thirty are slave states. Moreover, the change is constitutionally made, and the government was constructed so as to permit changes of the balance of power, in obedience to changes of the forces of the body politic. Danton used to say, "It's all well while the people cry Danton and Robespierre; but wo for me if ever the people learn to say, Robespierre and Danton!" That is all of it, sir. The people have been accustomed to say, "the South and the North;" they are only beginning now to say, "the North and the South." * * *

Sir, when the founders of the republic of the south come to draw those fearful lines, they will indicate what portions of the continent are to be

broken off from their connection with the Atlantic, through the St. Lawrence, the Hudson, the Delaware, the Potomac, and the Mississippi; what portion of this people are to be denied the use of the lakes, the railroads, and the canals, now constituting common and customary avenues of travel, trade, and social intercourse; what families and kindred are to be separated, and converted into enemies; and what states are to be the scenes of perpetual border warfare, aggravated by interminable horrors of servile insurrection. When those portentous lines shall be drawn, they will disclose what portion of this people is to retain the army and the navy, and the flag of so many victories; and on the other hand, what portion of the people is to be subjected to new and onerous imposts, direct taxes, and forced loans, and conscriptions, to maintain an opposing army, an opposing navy, and the new and hateful banner of sedition. Then the projectors of the new republic of the south will meet the question—and they may well prepare now to answer it—What is all this for? What intolerable wrong, what unfraternal injustice, have rendered these calamities unavoidable? What gain will this unnatural revolution bring to us? The answer will be: All this is done to secure the institution of African slavery. * * *

But you insist on a guaranty against the abolition of slavery in the District of Columbia, or war. Well, when you shall have declared war against us, what shall hinder us from immediately decreeing that slavery shall cease within the national capital?

You say that you will not submit to the exclusion of slaves from the new territories. What will you gain by resistance? Liberty follows the sword, although her sway is one of peace and beneficence. Can you propagate slavery then by the sword?

You insist that you cannot submit to the freedom with which slavery is discussed in the free states. Will war—a war for slavery—arrest or even moderate that discussion? No, sir; that discussion will not cease; war will only inflame it to a greater height. It is a part of the eternal conflict between truth and error—between mind and physical force—the conflict of man against the obstacles which oppose his way to an ultimate and glorious destiny. It will go on until you shall terminate it in the only way in which any state or nation has ever terminated it—by yielding to it—yielding in your own time, and in your own manner indeed, but nevertheless yielding to the progress of emancipation. You will do this, sooner or later, whatever may be your opinion now; because nations which were prudent and humane, and wise as you are, have done so already.

Sir, the slave states have no reason to fear that this inevitable change will go too far or too fast for their safety or welfare. It cannot well go too fast or too far, if the only alternative is a war of races.

But it cannot go too fast. Slavery has a reliable and accommodating ally in a party in the free states, which, though it claims to be, and doubtless is in many respects, a party of progress, finds its sole security for its political power in the support and aid of slavery in the slave states. Of course, I do not include in that party those who are now coöperating in maintaining the cause of freedom against slavery. I am not of that party of progress which in the north thus lends its support to slavery. But it is only just and candid that I should bear witness to its fidelity to the interests of slavery.

Slavery has, moreover, a more natural alliance with the aristocracy of the north and with the aristocracy of Europe. So long as slavery shall possess the cotton-fields, the sugar-fields, and the rice-fields of the world, so long will commerce and capital yield it toleration and sympathy. Emancipation is a democratic revolution. It is capital that arrests all democratic revolutions. It was capital that, so recently, in a single year, rolled back the tide of revolution from the base of the Carpathian mountains, across the Danube and the Rhine, into the streets of Paris. It is capital that is rapidly rolling back the throne of Napoleon into the chambers of the Tuilleries.

Slavery has a guaranty still stronger than these in the prejudices of caste and color, which induce even large majorities in all the free states to regard sympathy with the slave as an act of unmanly humiliation and self-abasement, although philosophy meekly expresses her distrust of the asserted natural superiority of the white race, and confidently denies that such a superiority, if justly claimed, could give a title to oppression.

There remains one more guaranty—one that has seldom failed you, and will seldom fail you hereafter. New states cling in closer alliance than older ones to the federal power. The concentration of the slave power enables you for long periods to control the federal government with the aid of the new states. I do not know the sentiments of the representatives of California; but, my word for it, if they should be admitted on this floor to-day, against your most obstinate opposition, they would, on all questions really affecting your interests, be found at your side. * * *

There are many well-disposed persons who are alarmed at the occurrence of any such disturbance. The failure of a legislative body to organize is to their apprehension a fearful omen, and an extra-constitutional assemblage to consult upon public affairs is with them cause for desperation. Even senators speak of the union as if it existed only by consent, and, as it seems to be implied, by the assent of the legislatures of the states. On the contrary, the union was not founded in voluntary choice, nor does it exist by voluntary consent.

A union was proposed to the colonies by Franklin and others, in 1754; but such was their aversion to an abridgment of their own importance, respectively, that it was rejected even under the pressure of a disastrous invasion by France.

A union of choice was proposed to the colonies in 1775; but so strong was their opposition, that they went through the war of independence without having established more than a mere council of consultation.

But, with independence came enlarged interests of agriculture—absolutely new interests of manufactures—interests of commerce, of fisheries, of navigation, of a common domain, of common debts, of common revenues and taxation, of the administration of justice, of public defense, of public honor; in short, interests of common nationality and sovereignty—interests which at last compelled the adoption of a more perfect union—a national government.

The genius, talents, and learning of Hamilton, of Jay, and of Madison, surpassing perhaps the intellectual power ever exerted before for the establishment of a government, combined with the serene but mighty influence of Washington, were only sufficient to secure the reluctant adoption of the constitution that is now the object of all our affections and of the hopes of mankind. No wonder that the conflicts in which that constitution was born, and the almost desponding solemnity of Washington, in his farewell address, impressed his countrymen and mankind with a profound distrust of its perpetuity! No wonder that while the murmurs of that day are yet ringing in our ears, we cherish that distrust, with pious reverence, as a national and patriotic sentiment.

* * * * *

I have heard somewhat here, and almost for the first time in my life, of divided allegiance—of allegiance to the south and to the union—of allegiance to states severally and to the union. Sir, if sympathies with state emulation and pride of achievement could be allowed to raise up another sovereign to divide the allegiance of a citizen of the United States, I might recognize the claims of the state to which, by birth and gratitude, I belong—to the state of Hamilton and Jay, of Schuyler, of the Clintons, and of Fulton—the state which, with less than two hundred miles of natural navigation connected with the ocean, has, by her own enterprise, secured to herself the commerce of the continent, and is steadily advancing to the command of the commerce of the world. But for all this I know only one country and one sovereign—the United States of America and the American people. And such as my allegiance is, is the loyalty of every other citizen of the United States. As I speak, he will speak when his time arrives. He knows no other country and no other sovereign. He has life, liberty, property, and precious

affections, and hopes for himself and for his posterity, treasured up in the ark of the union. He knows as well and feels as strongly as I do, that this government is his own government; that he is a part of it; that it was established for him, and that it is maintained by him; that it is the only truly wise, just, free, and equal government, that has ever existed; that no other government could be so wise, just, free, and equal; and that it is safer and more beneficent than any which time or change could bring into its place. *

You may tell me, sir, that although all this may be true, yet the trial of faction has not yet been made. Sir, if the trial of faction has not been made, it has not been because faction has not always existed, and has not always menaced a trial, but because faction could find no fulcrum on which to place the lever to subvert the union, as it can find no fulcrum now; and in this is my confidence. I would not rashly provoke the trial; but I will not suffer a fear, which I have not, to make me compromise one sentiment, one principle of truth or justice, to avert a danger that all experience teaches me is purely chimerical. Let, then, those who distrust the union make compromises to save it. I shall not impeach their wisdom, as I certainly cannot their patriotism; but, indulging no such apprehensions myself, I shall vote for the admission of California directly, without conditions, without qualifications, and without compromise. * * *

Mr. Cass, on the 13th of March, expressed his views at some length. A part of his speech was in reply to certain remarks of Mr. Calhoun and Mr. Seward. He agreed with what had been said by Mr. Clay; and he would vote for the proposed reference of the resolutions, indeed for almost any proposition likely to bring this country into harmony upon this perplexing question. He thought the country was under lasting obligations to Mr. Foote for his efforts to terminate the existing difficulties. For Mr. Calhoun, he expressed deep sympathy, but dissented from parts of his speech, which, he thought, contained a strange collection and collocation of facts, followed by strange conclusions. The sombre hue which pervaded his speech, he imagined, was owing to its having been prepared in the recesses of a sick chamber. [Mr. Calhoun, too feeble to address the senate, had written his speech, which had been read by Mr. Mason, of Virginia.]

Mr. Cass took exception to an expression of Mr. Calhoun, calling Washington "*the illustrious southerner*." "Our Washington—the Washington of our whole country—receives in this senate, the epithet of 'southerner,' as if that great man, whose distinguished characteristic was his attachment to his country, and his whole country, who was so well known, and who, more than any one, deprecated all sectional feeling

and all sectional action—loved Georgia better than he loved New Hampshire, because he happened to be born on the southern bank of the Potomac. I repeat, sir, that I heard with great pain, that expression from the distinguished senator from South Carolina. * * *

We have been three months here, and what have we done? Nothing. We have not passed a single law of the least national importance. We have occupied the whole time by the discussion of this question, and no practical result has been attained; and present appearances do not indicate that such a result is near. But, though we have done nothing, we have ascertained that some things can not be done. We have ascertained (I think I may say with certainty) that no Wilmot proviso can be passed through this congress. That measure is dead. It is the latest, and I hope it is the last, attempt that will be made to interfere with the right of self-government within the limits of this republic. I think we may also say, that no Missouri compromise line can pass, and that no one expects or desires that it should pass.

Mr. President, what was the compromise line? Allow me to read the law which established it:

“SEC. 8. *And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited.”

Now, sir, what is that provision? It is intervention north of the line of $36^{\circ} 30'$, and non-intervention south of that line. Why, sir, there is not one southern senator on this floor, and not one southern member of the other house, nor indeed a southern man who understands the subject, who would accept that line as a proper settlement of this question.

Mr. FOOTE, (in his seat.) I would not.

Mr. CASS. Why, sir, the whole doctrine of equal rights and of non-intervention is taken away by it at once. Why, sir, putting out of view the constitutional objections to such an arrangement, it gives the south nothing, while it prohibits the people north of $36^{\circ} 30'$ from exercising their own will upon the subject. The true doctrine of non-intervention leaves the whole question to the people, and does not divide their right of decision by a parallel of latitude. If they choose to have slavery north of that line, they can have it.

Mr. CALHOUN, (in his seat.) We are very competent to judge of that matter ourselves.

Mr. CASS. Is there a senator on this floor who would accept of a

proposition to apply the principle of non-intervention to a part of the territory, leaving to the people of the other portion to do as they please? No, sir; there is not a southern senator here who would vote for it. I will tell you, what would be voted for, has already been announced—a law declaratory, mandatory, or permissive, for the establishment of slavery south of the line of $36^{\circ} 30'$. The distinguished senator from South Carolina might be willing to accept a declaration that slavery does now exist, or that it shall exist, or may exist, south of a certain line; but I take it for granted that no senator from the south would be willing to abandon the ground of non-intervention, without some provision like that. * * *

Well, then, Mr. President, if these things are impossible—if they cannot be done—it remains to inquire what it is in our power to do.

My own opinion is, sir, that we should take up the bill for the recapture of fugitive slaves, reported by the judiciary committee. I am disposed to suspend all our discussions, and to lay aside all other business, with a view to act upon that bill, without unnecessary delay, and to pass it in such form as would be acceptable to a majority of this body. That is a point upon which the south feels most acutely, and in regard to which it has the most serious cause of complaint. I have heard but one man in this body deny the existence of this evil, or the justice and necessity of providing an adequate remedy. * * *

If I understood the senator from New York, (Mr. Seward,) he intimated his belief that it was immoral to carry into effect the provision of the constitution for the recapture of fugitive slaves. That, sir, is a very strange view of the duties of a senator in this body. No man should come here who believes that ours is an immoral constitution; no man should come here, and, by the solemn sanction of an oath, promise to support an immoral constitution. No man is compelled to take an oath to support it. He may live in this country, and believe what he chooses with regard to the constitution; but he has no right, as an honest man, to seek office, and obtain it, and then talk about its being so immoral that he can not fulfill its obligations. It is the duty of every man, who has sworn to support the constitution, fairly to carry its provisions into effect; and no man can stand up before his fellow-citizens and maintain any other doctrine, whatever reasons he may urge in his vindication.

In one of the most disingenuous portions of the speech of the honorable senator from New York, (Mr. Seward)—which itself was one of the most disingenuous I have ever heard—he speaks of “slavery having a reliable and accommodating ally in a party of the free states,” and he says he “bears witness to its fidelity to the interests of slavery.”

Now, I ask the senator from New York, if he believes there is a man in this senate from the north, whose course is influenced by his fidelity to slavery; and if he does, what right he has to cast odium upon gentlemen who are associated with him in the high duties which belong to his position?

Mr. SEWARD. The senator addresses a question to me, and I rise for no other purpose than to answer it. I think it was Mr. Jefferson who said that the natural ally of slavery in the south was the democracy of the north.

A senator. It was Mr. Buchanan.

Mr. SEWARD. I have heard it attributed to Mr. Jefferson. However this may be, I believe it. I assail the motives of no senator. I am not to be drawn into personal altercations by any interrogatories addressed to me. I acknowledge the patriotism, the wisdom, the purity of every member of this body. I never have assailed the motives of honorable senators in any instance, I never shall. When my own are assailed, I stand upon my own position. My life and acts must speak for me. I shall not be my own defender or advocate.

Mr. FOOTE. Do I understand the senator from New York as saying Mr. Jefferson asserted that the northern democracy was the natural ally of slavery? He never said such a word.

Mr. CASS. I will not touch upon that question; but I will ask the senator from New York in relation to another point—and that is, if he meant it in the sense which Mr. Jefferson, or whoever may have used it, intended? The one was intended as a commendation for their attachment to constitutional principles—the other as a slur upon a great party.

Mr. SEWARD. I answer promptly and freely: I had no purpose of casting reproach upon, or of reflecting upon, any member of this body, or upon any person anywhere. The remark had no such connection. I ask leave now to say, that such as I described is, in my view, the political organization of the parties of this country; that slavery has the support, the toleration (given honestly, and from patriotic motives, I admit) of the party to which I referred; and that its alliance with slavery constitutes its tower of strength. On the other hand, the party to which I belong, is a party which is more distinctly identified with the progress of the sentiment of freedom or emancipation, and therefore it is weaker in its alliances with the south.

Mr. DAWSON, of Georgia, wished to know if Mr. Seward belonged to the whig party and spoke its sentiments?

Mr. SEWARD said he spoke for no man but himself. But in the discharge of his duty, he allied himself to such a party as was most approxi-

mate to his principles and sentiments. He had belonged to the whig party during all his active life, and he should be the last to leave it, because of the two great parties it was the most devoted to the cause of freedom and emancipation.

Mr. CASS. (resuming.) I was going to remark that, with respect to the creed of the whig party, or the orthodoxy of the senator from New York, it is a matter with which I have no concern; but with respect to progress, I have something to say. My progress is within the constitution. My age of progress is circumscribed there. If the senator from New York is going out of it, I do not believe in his progress at all. No, sir! My object is to support the constitution which, under God, is the source of our prosperity and happiness.

Mr. SEWARD. (in his seat.) That is mine.

Mr. CASS. The senator from New York says, that also is *his* object. If it is, I think he has a very strange way of showing it, by pronouncing it immoral, and denying the validity of its obligations. It would last scarcely a day, if that senator, with his avowed principle of action, had the direction of the government. I do not say that it would be dissolved immediately, but the seeds of dissolution would be sown, and would ripen into a harvest of misfortune as speedily as the rankest vegetation gains maturity under a tropical sun.

Some conversation and explanations here took place between Mr. Cass and Mr. Calhoun, in reference to the remarks of Mr. Calhoun in his speech, in relation to the means of saving the union; which were, the immediate settlement of the slave question, and an amendment of the constitution: also in relation to the admission of California being made a test question; which Mr. Cass understood to mean, that the admission of California would be followed by a dissolution of the union; a construction of his remarks which Mr. Calhoun disavowed. In regard to the word "now," he did not mean that the amendment to the constitution must be made instanter, but that an indication should be given now, that such amendment would be agreed to, leaving it to be carried through the ordinary process.

Mr. Cass concluded his speech the next day. He said: I was remarking yesterday, when I resigned the floor, that there were certain things we could not accomplish, and others that, with equal certainty, we might take for granted we could do. Among the latter, was the bill providing for the recapture of fugitive slaves; and another object, which I trust will be accomplished, is the providing of a government for the new territories. I think it essential to calm this agitation, and so long as these territories are left without a government, so long will the present state of things continue, and this agitation be kept up, which is

so harassing to the tranquillity, and dangerous to the peace, of the union. That a law may be passed authorizing the people of the territories to govern themselves, without any Wilmot proviso being attached to it, is my wish and my hope.

Sir, we cannot stand before the country, and before the world, and object to the admission of California on the ground that has been urged. The objection is not to her boundaries, though that topic has been much debated. * * * I myself was at first startled at the boundary claimed, stretching as it does along the coast of the Pacific one thousand miles—a much greater extent than any one state in the union ought to possess. * * * But the country between the ocean and the sea is a narrow one, and east of the mountains is a desert, and in proportion to its extent, the quantity of arable land is small. Be the boundaries as they may, it is not probable, that its population will ever be as great as that of some of the other states of this union. And if its southern boundary were to stop at the mountains, there would be left between them and the Mexican possessions a small district of country, which would have to remain for an indefinite period, perhaps forever, in a colonial condition.

The senator from South Carolina, (Mr. Calhoun,) who I regret to see is not in his seat to-day, does not assume this ground as an objection to the admission of California. That objection rests upon her present position and mode of application; because she has established a government of her own without passing through a territorial process, and comes here of her own accord, and asks admission into this union. This ground of objection cannot be maintained in this age of the world, before the people of this country, and, I may add, the people of Christendom. * * *

There are two positions I have always maintained with reference to this subject—first, that congress, under the constitution, has no right to establish governments for the territories; secondly, that under no circumstances have they the right to pass any law to regulate the internal affairs of the people inhabiting them. The first may be a matter of necessity; and when the necessity exists, if a senator votes for it, he votes upon his own responsibility to his constituents. If they believe the necessity and support him, he is safe, but if not, he must fall. If I had voted under such circumstances, I must have looked to my constituents for my justification; but under no circumstances could I have voted for any law interfering with the internal concerns of the people of a territory. No necessity requires it; there is no necessity which would justify it.

Mr. CHASE. Did I understand the senator as saying that, in voting

for a bill to establish a government in the territories he would assume the exercise of any authority not given in the constitution?

MR. CASS. The honorable senator will undoubtedly recollect, that in a historical document called the Nicholson letter, which subsequent circumstances have made somewhat important, I distinctly stated my views upon this subject, and those views have remained unchanged to the present hour. I maintained, that no power is given by the constitution to establish territorial governments, but that where an imperious necessity exists for such a measure, the legislator who yields to it must look to his constituents for his justification.

MR. CHASE. I understood the senator to say, that there was no such authority given by the constitution?

MR. CASS. I said, that if we do an act not authorized by the constitution, under a pressure of necessity, that act must be done upon our own responsibility; and I refer the gentleman to the authority of Mr. Madison, who justified the action of the congress of the confederation, on the subject of territories, upon this ground—and upon this alone. If the gentleman will take the trouble to look at my speech on the Wilmot proviso, he will find my views on this point distinctly laid down. What is the objection in principle to the admission of California? Allow me to say, that great political rights and movements, in this age of the world, are not to be determined by mere abstract or speculative opinions. There is no want of heavy books in the world, which treat of political science; but you need not go to them to ascertain the rights of men—either individuals or in communities; if you do, you will lose yourself groping in a labyrinth, and where no man can follow you. If there are rights of sovereignty, there may be wrongs of sovereignty; and this truth should be held in everlasting remembrance. And this is the case with regard to California. We have rights, and we have duties; and if the former are sacred, the latter should be sacred also. One of these duties we have neglected to perform; and we are told by gentlemen who have spoken here, that when a state wishes admission into the union, she should come to the door of congress and knock for admission. California has thus come, and knocked; but no door is open to her, and she is to be told, "Go back and wait till we are ready." There is but one door through which you can enter, and that door we keep shut. You must pass through a territorial government; but that government we have neglected to give you, and we are probably as far from establishing it as ever. And such is the paternal regard we manifest toward one hundred thousand American citizens, who are upholding the flag of our country on the distant shores of the Pacific. A good deal has been said about precedents: I am not going to examine either their applica-

tion or authority, though it has been pretty clearly shown by others, that they fully justify this measure of admission.

About two months after the date of this speech of Gen. Cass, Mr. Calhoun, who had participated in this debate, died in the city of Washington, on the 31st of March, 1850. His death was succeeded, in 1852, by that of his two distinguished associates in that body, Mr. Clay and Mr. Webster. The former died at Washington, on the 29th of June, of that year; the latter in the following autumn, at his residence in Massachusetts.

CHAPTER LXXIV.

PRESIDENTIAL ELECTION OF 1852.—INAUGURATION OF MR. PIERCE.

THE national democratic convention to nominate candidates for president and vice-president, met at Baltimore on the 1st of June, 1852. The Hon. John W. Davis, of Indiana, formerly speaker of the house of representatives, was chosen president of the convention.

The two-thirds rule, which was again proposed, was opposed on the ground that it enabled a minority to force the majority into their views. It was, however, adopted. Although the convention was more pacific than that of 1848, there was quite as great a difficulty in effecting a nomination.

Gen. Cass received on the first ballot, 117 votes; James Buchanan, 93; Stephen A. Douglas, 20; Wm. L. Marcy, 27. The balloting, which did not begin until the 3d day, (June 3d,) ended for that day with the 17th ballot, which stood: For Cass, 99; Buchanan, 87; Douglas, 50; Marcy, 26. The next day's balloting closed with the 33d trial, Cass having received 123 votes; Buchanan, 72; Douglas, 60; Marcy, 25. On the 5th, the Virginia delegation having retired for consultation, returned, and cast their votes for Franklin Pierce, of New Hampshire, who, on the 49th ballot, received the unanimous vote of the convention.

William R. King, of Alabama, was nominated for vice-president.

The whig convention, which met at the same place on the 16th of June, was also in session five days, having found it no less difficult to unite upon a candidate for president. John G. Chapman, of Maryland, was chosen president of the convention. Some delay in the proceedings

of the convention was caused by a contest for seats between some of the New York delegates. Unlike the convention of 1848, a platform of principles was adopted, by a vote of 227 to 60, and before any attempt at nomination had been made.

Balloting commenced the 3d day of the session, Mr. Fillmore receiving 132 votes; Gen. Scott, 131; Mr. Webster, 29. The next day began with the 7th ballot; and on the 53d, the result was, for Scott, 159; Fillmore, 112; Webster, 21; Scott having a majority. William A. Graham, of North Carolina, was nominated for vice-president.

The declarations of sentiment, or platforms of the two parties were less antagonistic than usual. The distinctive principles of the respective parties were less prominently set forth; while upon certain abstract questions, and the subject of slavery, the two conventions took the same ground. The democratic convention declared,

"That congress has no power under the constitution to interfere with or control the domestic institutions of the several states, and that such states are the sole and proper judges of every thing appertaining to their own affairs, not prohibited by the constitution; that all efforts of the abolitionists, or others, made to induce congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the union, and ought not to be countenanced by any friend of our political institutions.

"That the foregoing proposition covers, and was intended to embrace the whole subject of slavery agitation in congress; and therefore the democratic party of the union, standing on this national platform, will abide by and adhere to a faithful execution of the acts known as the compromise measures settled by the last congress—the act for reclaiming fugitives from service or labor included; which act being designed to carry out an express provision of the constitution, can not with fidelity thereto be repealed, nor so changed as to destroy or impair its efficiency.

"That the democratic party will resist all attempts at renewing in congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be made."

The whig convention makes the following declaration:

"That the series of acts of the thirty-first congress—the act known as the fugitive slave law included—are received and acquiesced in by the whig party of the United States, as a settlement in principle and substance, of the dangerous and exciting question which they embrace; and

so far as they are concerned, we will maintain them and insist on their strict enforcement, until time and experience shall demonstrate the necessity of further legislation, to guard against the evasion of the law on the one hand, and the abuse of their powers on the other, not impairing their present efficiency; and we deprecate all further agitation of the question thus settled, as dangerous to our peace; and will discountenance all efforts to continue or renew such agitation whenever, wherever, or however the attempt may be made; and we will maintain this system as essential to the nationality of the whig party of the union."

The resolutions constituting the whig platform, were said to have been prepared or dictated by the southern delegates. Certain it is, that in no exclusively northern convention of whigs would such a declaration as the above have received the votes of the delegates from the free states who seemed to concur in their adoption. It is not doubted, however, that, from many of them they received a very reluctant support.

All the southern delegates, except those from Delaware, voted on the first ballot for Mr. Fillmore; and were unwilling to pledge themselves to the support of Gen. Scott, until a letter from him was read to the convention, expressing his willingness to accept the nomination if tendered him, with the platform laid down by the convention.

Judging simply from their respective platforms, it would seem that there was little ground for a very active and vigorous contest between the parties. The campaign, however, was conducted with the usual spirit, though, with unequal advantages. A reünion of the democratic party had taken place. The compromise of 1850 was supposed to have settled the slavery controversy which had been the principal cause of difference between the two sections of that party. The whigs were less united. A majority of the party at the north was opposed to the late compromise measures, which, in the main, were in accordance with the views of Mr. Fillmore, and to which he had given his official sanction. Mr. Webster also was in favor of the compromise. Hence, the mass of the friends of these two gentlemen gave to the nomination at best a lukewarm support, and many of them no support at all, as was evident from the popular vote. Much had been expected from the military popularity of General Scott; but whatever advantage this may have given him, was more than counterbalanced by the disaffection of the friends of the disappointed candidates. There was an overwhelming defeat of the whig party.

Of the 296 electoral votes, Mr. Pierce received 254. General Scott received only the votes of the states of Massachusetts, Vermont, Kentucky and Tennessee, in all, 42.

The inauguration of Franklin Pierce as president of the United States, took place on the 4th of March, 1853. The inaugural address contained

the usual eulogium upon the government. One of the evidences of the wisdom of its founders was found in the actual working of the system, which had allayed the apprehensions of dangers from extended territory, multiplied states, accumulated wealth, and augmented population.

Special allusion was made in the address to the subject "which had recently agitated the nation." He said: "If the federal government would confine itself to the exercise of powers clearly granted by the constitution, it could hardly happen that its action upon any question should endanger the institutions of the states, or interfere with their rights to manage matters strictly domestic according to the will of their own people." His regard to the great compromise of the constitution, was thus expressed: "I believe that involuntary servitude, as it exists in different states in this confederacy, is recognized by the constitution. I believe that it stands like any other admitted right; and that the states where it exists are entitled to efficient remedies to enforce the constitutional provisions. I hold that the laws of 1850, commonly called the 'compromise measures,' . . . are strictly constitutional, and to be unhesitatingly carried into effect. * * * I fervently hope that the question is at rest, and that no sectional, or ambitious, or fanatical excitement may again threaten the durability of our institutions, or obscure the light of our prosperity."

CHAPTER LXXV.

THE TERRITORIAL GOVERNMENTS OF KANSAS AND NEBRASKA.

THE 33d congress commenced its 1st session December 5, 1853. Lynn Boyd, a democratic member from Kentucky, was elected speaker, having received 143 votes against 74 for all other candidates.

The message of President Pierce was the next day communicated to congress. Besides the ordinary subjects of legislation requiring the attention of congress, the slavery question was again introduced. Considering the question as effectually settled, he thus declared his purpose of leaving it undisturbed:

"It is no part of my purpose to give prominence to any subject which may properly be regarded as set at rest by the deliberate judgment of the people. But while the present is bright with promise, and the future full of demand and inducement for the exercise of active intelligence, the past can never be without useful lessons of admonition and

instruction. If its dangers serve not as beacons, they will evidently fail to fulfill the object of a wise design. When the grave shall have closed over all who are now endeavoring to meet the obligations of duty, the year 1850 will be recurred to as a period filled with anxious apprehension. A successful war had just terminated. Peace brought with it a vast augmentation of territory. Disturbing questions arose, bearing upon the domestic institutions of one portion of the confederacy, and involving the constitutional rights of the states. But, notwithstanding differences of opinion and sentiment, which then existed in relation to details and specific divisions, the acquiescence of distinguished citizens, whose devotion to the union can never be doubted, had given renewed vigor to our institutions, and restored a sense of repose and security to the public mind throughout the confederacy. That this repose is to suffer no shock during my official term, if I have power to avert it, those who placed me here may be assured."

Notwithstanding the determination, thus explicitly expressed, to endeavor to prevent a renewal of the agitation of this question, a measure was already in train which, before the session was far advanced, gave the premonition of a "shock" even more violent than any which had preceded it. On the first day of the session, the day before the delivery of the message, senator Dodge, of Iowa, gave notice of a bill to establish a territorial government for Nebraska. On the 14th it was introduced and referred to the committee on territories; and the next day it was reported by Mr. Douglas, chairman of that committee, with amendments.

Some doubts having been expressed, whether the amendments repealed the Missouri compromise, a special report was made on the 4th of January, 1854, so amending the bill as to leave no doubt that that compromise had been superseded by the acts of 1850. These measures were said to "rest upon the great principles of self-government, that the people should be allowed to decide the questions of their domestic institutions for themselves." This report which proposed to open all that vast territory to the introduction of slavery, produced a general sensation throughout the whole union, and revived the agitation to a degree never exceeded. And what excited special wonder, was, that such a proposition should be voluntarily and gratuitously tendered to the south; which was not easily accounted for, except on the supposition that it had been prompted by political aspirations.

On the 16th of January, Mr. Dixon, of Kentucky, gave notice of an amendment to exempt the territory from the application of the Missouri compromise.

The southern boundary of the proposed territory had been fixed on

the parallel of $36^{\circ} 30'$. On having been informed that that boundary would divide the Cherokee country, Mr. Douglas, on the 23d of January, reported in favor of taking the line of the 37th degree, so as to run between the Cherokees and the Osages. He said also, that two agents elected by the people of that territory had arrived with petitions for two territories, Kansas and Nebraska, to be divided on the 40th parallel of latitude. This proposition had received the approval of the representatives of Iowa and Missouri; and the committee therefore reported a substitute for the bill before the senate, providing for the division of the territory.

The debate on the bill was opened by Mr. Douglas, on the 30th of January. In justification of his proposition to leave the whole territory open to slavery, he insisted that the Missouri compromise had been repealed. One of the grounds upon which this declaration was founded, was the action of congress in 1848, after the acquisition of territory from Mexico, when the senate voted into a bill a provision to extend the Missouri compromise line westward to the Pacific ocean; which provision was defeated in the house. This defeat of that proposition Mr. D. construed into an abandonment of the compromise. It was this defeat of that compromise that created the struggle of 1850, and the necessity for making the new compromise of that year; the leading feature of which was non-intervention by congress as to slavery in the territories—leaving the question to be settled by the people therein. It was of universal application—to the country both north and south of $36^{\circ} 30'$.

Mr. D. said the legal effect of this bill, if passed, was neither to legislate slavery into nor out of these territories, but to leave the people to do as they pleased. And why should any man, north or south, object to this principle? It was by the operation of this principle, and not by any dictation from the federal government, that slavery had been abolished in half of the twelve states in which it existed at the time of the adoption of the constitution.

In regard to Utah and New Mexico, Mr. D. said: "In 1850, we who resisted any attempt to force institutions upon the people of those territories inconsistent with their wishes and their right to decide for themselves, were denounced as slavery propagandists. Every one of us who was in favor of the compromise measures of 1850 was arraigned for having advocated a principle purposing to introduce slavery into those territories, and the people were told, and made to believe, that, unless we prohibited it by act of congress, slavery would necessarily and inevitably be introduced into these territories.

"Well, sir, we did establish the territorial governments of Utah and New Mexico without any prohibition. We gave to these abolitionists

a full opportunity of proving whether their predictions would prove true or false. Years have rolled round, and the result is before us. The people there have not passed any law recognizing, or establishing, or introducing, or protecting slavery in the territories.

"I do not like, I never did like, the system of legislation on our part, by which a geographical line, in violation of the laws of nature, and climate, and soil, and of the laws of God, should be run to establish institutions for a people contrary to their wishes; yet, out of a regard for the peace and quiet of the country, out of respect for past pledges, and out of a desire to adhere faithfully to all compromises, I sustained the Missouri compromise so long as it was in force, and advocated its extension to the Pacific ocean. Now, when that has been abandoned, when it has been superseded, when a great principle of self-government has been substituted for it, I choose to cling to that principle, and abide in good faith, not only by the letter, but by the spirit of the last compromise.

"Sir, I do not recognise the right of the abolitionists of this country to arraign me for being false to sacred pledges, as they have done in their proclamations. Let them show when and where I have ever proposed to violate a compact. I have proved that I stood by the compact of 1820 and 1845, and proposed its continuance and observance in 1848. I have proved that the free-soilers and abolitionists were the guilty parties who violated that compromise then. I should like to compare notes with these abolition confederates about adherence to compromises. When did they stand by or approve of any one that was ever made?

"Did not every abolitionist and free-soiler in America denounce the Missouri compromise in 1820? Did they not for years hunt down ravenously, for his blood, every man who assisted in making that compromise? Did they not in 1845, when Texas was annexed, denounce all of us who went for the annexation of Texas and for the continuation of the Missouri compromise line through it? Did they not, in 1848, denounce me as a slavery propagandist for standing by the principles of the Missouri compromise, and proposing to continue it to the Pacific ocean? Did they not themselves violate and repudiate it then? Is not the charge of bad faith true as to every abolitionist in America, instead of being true as to me and the committee, and those who advocate this bill?

"They talk about the bill being a violation of the compromise measures of 1850. Who can show me a man in either house of congress who was in favor of those compromise measures in 1850, and who is not now in favor of leaving the people of Nebraska and Kansas to do as they please upon the subject of slavery, according to the principle of my

bill? Is there one? If so, I have not heard of him. This tornado has been raised by abolitionists, and abolitionists alone. They have made an impression upon the public mind, in the way in which I have mentioned, by a falsification of the law and the facts; and this whole organization against the compromise measures of 1850 is an abolition movement. I presume they had some hope of getting a few tender-footed democrats into their plot; and, acting on what they supposed they might do, they sent forth publicly to the world the falsehood that their address was signed by the senators and a majority of the representatives from the state of Ohio; but when we come to examine signatures, we find no one whig there, no one democrat there; none but pure, unmitigated, unadulterated abolitionists."

On the 3d of February, Mr. Chase, senator from Ohio, moved to strike out from the bill, the words, "was superseded by the principles of the legislation of 1850, commonly called the compromise measures, and," so that the clause would read:

"That the constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said territory of Nebraska as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the union, approved March 6, 1820, which is hereby declared inoperative."

Mr. Chase then proceeded to reply to Mr. Douglas:

"Mr. President, I had occasion, a few days ago, to expose the utter groundlessness of the personal charges made by the senator from Illinois (Mr. Douglas) against myself and the other signers of the independent democratic appeal. I now move to strike from this bill a statement which I will to-day demonstrate to be without any foundation in fact or history. I intend afterwards to move to strike out the whole clause annulling the Missouri prohibition. * * *

"A few days only have elapsed since the congress of the United States assembled in this capitol. Then no agitation seemed to disturb the political elements. Two of the great political parties of the country, in their national conventions, had announced that slavery agitation was at an end, and that henceforth that subject was not to be discussed in congress or out of congress. The president, in his annual message, had referred to this state of opinion, and had declared his fixed purpose to maintain, as far as any responsibility attached to him, the quiet of the country.

"The agreement of the two old political parties, thus referred to by the chief magistrate of the country was complete, and a large majority of the American people seemed to acquiesce in the legislation of which

he spoke. A few of us, indeed, doubted the accuracy of these statements, and the permanency of this repose. We never believed that the acts of 1850 would prove to be a permanent adjustment of the slavery question. * * *

"But, sir, we only represented a small, though vigorous and growing party in the country. Our number was small in congress. By some we were regarded as visionaries—by some as factionists; while almost all agreed in pronouncing us mistaken. And so, sir, the country was at peace. As the eye swept the entire circumference of the horizon and upward to mid-heaven, not a cloud appeared; to common observation there was no mist or stain upon the clearness of the sky. But suddenly all is changed; rattling thunder breaks from the cloudless firmament. The storm bursts forth in fury. * * * And now we find ourselves in the midst of an agitation, the end and issue of which no man can foresee.

"Now, sir, who is responsible for this renewal of strife and controversy? Not we, for we have introduced no question of territorial slavery into congress—not we, who are denounced as agitators and factionists. No, sir: the quietists and the finalists, have become agitators; they who told us that all agitation was quieted, and that the resolutions of the political conventions put a final period to the discussion of slavery.

"This will not escape the observation of the country. It is *slavery* that renews the strife. It is slavery that again wants room. It is slavery with its insatiate demand for more slave territory and more slave states.

"And what does slavery ask for now? Why, sir, it demands that a time-honored and sacred compact shall be rescinded—a compact which has endured through a whole generation—a compact which has been universally regarded as inviolable, north and south—a compact, the constitutionality of which few have doubted, and by which all have consented to abide.

"It will not answer to violate such a compact without a pretext. Some plausible ground must be discovered or invented for such an act; and such a ground is supposed to be found in the doctrine which was advanced the other day by the senator from Illinois, that the compromise acts of 1850 'superseded' the prohibition of slavery north of 36° 30', in the act preparatory for the admission of Missouri. Ay, sir, 'superseded' is the phrase—'superseded by the principles of the legislation of 1850, commonly called the compromise measures.'

"It is against this statement, untrue in fact, and without foundation in history, that the amendment which I have proposed is directed."

Mr. C. farther said, that, during the long discussion of the compro-

mise measures in 1850, it was never suggested that they were to supersede the Missouri prohibition. At the last session, a Nebraska bill passed the house, came to the senate, and was reported on by Mr. Douglas, who also made a speech in its favor; and in all there was not a word about repeal by supersedure. The senator from Missouri, (Mr. Atchison,) had also spoken upon the bill, and had distinctly declared, that the Missouri prohibition was not and could not be repealed." An extract was here read from the speech of this senator, of which this is a part:

'I have always been of opinion that the first great error committed in the political history of this country was the ordinance of 1787, rendering the Northwest Territory free territory. The next great error was the Missouri compromise. But they are both irremediable. There is no remedy for them. We must submit to them. I am prepared to do it. It is evident that the Missouri compromise cannot be repealed. So far as that question is concerned, we might as well agree to the admission of this territory now as next year, or five or ten years hence.'

"Now, sir, when was this said? It was on the morning of the 4th of March, just before the close of the last session, when that Nebraska bill, reported by the senator from Illinois, which proposed no repeal, and suggested no supersedure, was under discussion. I think, sir, that all this shows pretty clearly that up to the very close of the last session of congress, nobody had ever thought of a repeal by supersedure. Then what took place at the commencement of the present session? The senator from Iowa, early in December, introduced a bill for the organization of the territory of Nebraska. I believe it was the same bill which was under discussion here at the last session, line for line, and word for word. If I am wrong, the senator will correct me.

"Did the senator from Iowa then entertain the idea that the Missouri prohibition had been superseded? No, sir; neither he nor any other man here, so far as could be judged from any discussion, or statement, or remark, had received this notion."

Mr. C. then referred to Mr. Douglas' own report of the 4th of January last, made only thirty days ago. Nor did this report express the opinion that the compromise acts of 1850 had superseded the Missouri prohibition. The committee said that some affirmed and others denied, that the Mexican laws prohibiting slavery in the territory acquired from Mexico, were still in force there; and they said that the territorial compromise acts stood clear of these questions. They simply provided "that the states organized out of these territories might come in with or without slavery as they should elect, but did not affect the question whether slaves could or could not be introduced before the organization of state governments. That question was left to judicial decision."

So in respect to the Nebraska territory. There were southern men who contended they would, by virtue of the constitution, take their slaves thither, and hold them there, notwithstanding the Missouri prohibition, while a majority of the American people, north and south, believed that prohibition constitutional and effectual. But did the committee propose to repeal it, or suggest that it had been superseded? No. They said they did "not feel themselves called upon to enter into the discussion of these controverted questions. Congress deemed it wise and prudent to refrain from deciding the matters in controversy then, either by affirming or repealing the Mexican laws, or by an act declaratory of the true intent of the constitution and the extent of the protection afforded by it to slave property in the territories; so your committee are not prepared now to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the eighth section of the Missouri act, or by any act declaratory of the meaning of the constitution in respect to the legal points in dispute."

"Mr. President, here are very remarkable facts. The committee on territories declared that it was not wise, that it was not prudent, that it was not right to renew the old controversy, and to rouse agitation. They declared that they would abstain from any recommendation of a repeal of the prohibition, or of any provision declaratory of the construction of the constitution in respect to the legal points in dispute."

Mr. Chase traced the progress of the committee's bill. As published January 7th, it contained twenty sections. On the 10th, it was published again: it then had twenty-one sections. The omission of the last section was alleged to be a clerical error. It was, he said, a singular fact, that this twenty-first section was not in harmony with the committee's report. It in effect repealed the Missouri prohibition, which the committee, in their report, declared ought not to be done. Was it possible that this was a mere clerical error?

But the addition of this section did not help the bill. It declared among other things that the question of slavery in the territories and in the states to be formed therefrom, was to be left to the decision of the people through their representatives. But this did not meet the approbation of southern gentlemen, who claimed the right to take their slaves into the territories, notwithstanding any prohibition either by congress or by a territorial legislature. It was not enough that the committee had abandoned their report, and added this twenty-first section in direct contravention of its reasonings and principles; the section must itself be abandoned and the repeal of the Missouri prohibition placed in a shape which would deny the slaveholding claim. He next alluded to the amendment of the senator from Kentucky, "which came square up to the

repeal and to the claim. That amendment probably produced some fluttering and some consultation. It met the views of southern senators, and probably determined the shape which the bill had finally assumed." For "it was just seven days after the amendment had been offered by senator Dixon, that a fresh amendment was reported from the committee on territories, in the shape of a new bill, enlarged to forty sections. This new bill cuts off from the proposed territory half a degree of latitude on the south, and divides the residue into two territories." This new bill thus provided for the repeal of the Missouri prohibition :

"The constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said territory of Nebraska as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the union, approved March 6, 1820, which was superseded by the principles of the legislation of 1850, commonly called the compromise measures, and is therefore declared inoperative."

"Doubtless, Mr. President, this provision operates as a repeal of the prohibition. The senator from Kentucky was right when he said it was in effect the equivalent of his amendment. Those who are willing to break up and destroy the old compact of 1820, can vote for this bill with full assurance that such will be its effect. But I appeal to them not to vote for this supersedure clause. I ask them not to incorporate into the legislation of the country a declaration which every one knows to be wholly untrue. I have said that this doctrine of supersedure is new. I have now proved that it is a plant of but ten days' growth. It was never seen or heard of until the 23d day of January, 1854. It was upon that day that this tree of Upas was planted : we already see its poison fruits.

"The provision I have quoted abrogates the Missouri prohibition. It asserts no right in the territorial legislature to prohibit slavery. The senator from Illinois, in his speech, was very careful to assert no right of legislation in a territorial legislature, except subject to the restrictions and limitations of the constitution. We know well enough what the understanding or claim of southern gentlemen is in respect to these limitations and restrictions. They insist that by them every territorial legislature is absolutely precluded from all power of legislation for the prohibition of slavery. I warn gentlemen who propose to support this bill, that their votes for this provision will be regarded as admitting this claim."

Having thus endeavored to prove that the doctrine that the Missouri compromise had been superseded by the acts of 1850, was new, Mr. Chase attempted to prove it unfounded. Mr Douglas had charged as a misrepresentation, the statement in the appeal of the independent democrats, that the acts of 1850 were intended to apply to the territory

acquired from Mexico only; and that they did not touch the existing exclusion of slavery from what was now called Nebraska. Mr. Chase referred to the report of the committee of thirteen in 1850, which distinctly stated that the compromise measures applied to the newly acquired territory; and he appealed to Gen. Cass, who sat near him, whether any thing had been said in the committee of thirteen, or elsewhere, which indicated a purpose to apply them to any other territory. (Mr. Cass remained silent.) Mr. C. therefore assumed that he was correct; and he proceeded at length in attempting to disprove the assertion of Mr. Douglas, that the Missouri compromise had been superseded. He said:

"But the senator from Illinois says that the territorial compromise acts did in fact apply to other territory than that acquired from Mexico. How does he prove that? He says that a part of the territory was acquired from Texas. But this very territory which he says was acquired from Texas, was acquired first from Mexico. After Mexico ceded it to the United States, Texas claimed that that cession inured to her benefit. That claim, only, was relinquished to the United States. The case, then, stands thus: we acquired the territory from Mexico; Texas claimed it, but gave up her claim. This certainly does not disprove the assertion that the territory was acquired from Mexico, and as certainly it does not sustain the senator's assertion, that it was acquired from Texas.

"The senator next tells the senate and the country, that by the Utah act, there was included in the territory of Utah a portion of the old Louisiana acquisition, covered by the Missouri prohibition, which prohibition was annulled as to that portion by the provisions of that act. Every one at all acquainted with our public history knows that the dividing line between Spain and the United States extended due north from the source of the Arkansas to the 42d parallel of north latitude. That arbitrary line left within the Louisiana acquisition a little valley in the midst of rocky mountains, where several branches of the Grand river, one of the affluents of the Colorado, take their rise. Here is the map. Here spreads out the vast territory of Utah, more than one hundred and eighty-seven thousand square miles. Here is the little spot, hardly a pin's point upon the map, which I cover with the tip of my little finger, which, according to the boundary fixed by the territorial bill, was cut off from the Louisiana acquisition and included in Utah. The account given of it in the senator's speech would lead one to suppose that it was an important part of the Louisiana acquisition. It is, in fact, not of the smallest consequence. There are no inhabitants there. * * * It was known that the Rocky Mountain range was very near the arbitrary line fixed by the treaty, and nobody ever dreamed that the adoption of that range as the eastern boundary of Utah would abrogate the

Missouri prohibition. The senator reported that boundary line. Did he tell the senate or the country that its establishment would have that effect? No, sir: never. The assertion of the senator that a 'close examination of the Utah act clearly establishes the fact that it was the intent, as well as the legal effect of the compromise measures of 1850 to supersede the Missouri compromise, and all geographical and territorial lines,' is little short of preposterous. There was no intent at all, except to make a convenient eastern boundary to Utah, and no legal effect at all upon the Louisiana acquisition, except to cut off from it the little valley of the Middle Park."

Mr. Douglas had charged the signers of the appeal with misrepresentation in assuming that it was the policy of the fathers of the republic to prohibit slavery in all the territories ceded by the old states to the union. Mr. Chase commenced with a reference to the sentiments of Jefferson, and traced the history of the action of the government on the subject, through a long period of years, in vindication of the statement controverted by Mr. Douglas.

Mr. Chase's amendment was negatived, 13 to 30.

Mr. Houston advocated the rights of the Indians included within the territories, who were to be disturbed by this bill. He adverted to the pledges made to them from time to time, and especially the assurance given them in the treaty of 1835, that their lands beyond the Mississippi should never, without their consent, be included within the territorial limits or jurisdiction of any state or territory. He objected to the bill on other grounds. There was no necessity for joining three such important subjects. The organization of Nebraska without a sufficient population to warrant it, nearly all being Indian territory; the organization of Kansas, entirely held and occupied by Indians; and the repeal of the Missouri compromise, an important consideration for the American people, were all placed in this omnibus shape, and presented for action. He had on former occasions supported the Missouri compromise, assisted by the south, because they regarded it as a solemn compact. Texas, he said, had been admitted upon that principle. It was an express condition of her admission, that in all new states formed out of her territory north of 36° 30', slavery should be prohibited.

Mr. H. said he had voted for the compromise of 1850; but he did not suppose that he was voting to repeal the Missouri compromise. He regarded it as a final settlement of this mooted question, this source of agitation. Great trials and emergencies, he feared, would arise between the north and the south. The south was in a minority: she could not be otherwise. If she should accede to the violation of a compact so sacred as this, she would set an example that would be followed when she did

not desire it. He averred that he would resist every attempt to infringe or repeal the Missouri compromise.

On the 15th of February, the question was taken on the substitute of the committee reported by Mr. Douglas, to strike out the words which declared the Missouri compromise to be superseded by that of 1850, and to insert the provision declaring the Missouri compromise inconsistent with the principles of non-intervention of congress with slavery in the states and territories as recognized by the legislation of 1850, and inoperative and void; and declaring the people free to regulate their domestic institutions in their own way, subject only to the constitution of the United States. The substitute was adopted, 35 to 10.

Mr. Chase then moved to insert a provision permitting the legislature to prohibit slavery.

Mr. Badger held that, although the Missouri compromise of 1820 was in its terms applied to the territory acquired from Louisiana, because we then had no other territory whose destiny was to be settled by an act of congress; yet as it was to be presumed that, if there had been other territory, it would have been brought under the operation of the same act, he regarded the provisions of that compromise as applicable to the territory since acquired. It was applied to Texas when that state came into the union. But he maintained that the principle of that compromise was repudiated by the legislation of 1850. Its application was insisted on by southern senators in many cases; they asked nothing, they sought nothing, but the simple recognition of the Missouri compromise line; but that was refused them; and the territorial governments established in 1850, were constructed in utter disregard of that compromise, which he considered as no longer obligatory.

Mr. Cass expressed his regret that this question of the repeal of the Missouri compromise, which opened all the disputed points connected with the subject of congressional action upon slavery in the territories, had again been brought before the senate. The advantages to result from the measure would not outweigh the injury which the ill-feeling accompanying the discussion would produce. Nor would the south derive any benefit from it, as no human power could establish slavery in the regions defined by these bills. He was, however, in favor of the amendment of the committee which declared that the people, whether in the territories, or in the states to be formed from them, were free to regulate their domestic institutions in their own way, subject only to the constitution of the United States.

Mr. C., in the course of his speech, replied to the complaints that the south was excluded from, and robbed of the territories, and that they were appropriated to the north. While he repeated the opinion that

congress was not authorized to restrain a person, by legal enactment, from taking slaves into any territory of the United States, he maintained that the prohibition of slavery by local legislation was *not* an exclusion of the south more than the north, as a slaveholder and a non-slaveholder could go into such territory on equal terms; and he denied the charge of the south, that congress, by admitting a state whose constitution interdicts slavery, is responsible for that act.

In relation to the power of congress over the territories, he contended that the power granted by the constitution to regulate and "dispose of the territory and other property of the United States," meant simply the power to dispose of the public lands, as property, and did not include the power of life and death over the inhabitants.

The debate, in which many other senators participated, was continued until the 2d of March, when Mr. Clayton moved to amend so as to disallow the right of suffrage and of holding office to foreigners who had declared on oath their intention to become citizens, and had sworn to support the constitution of the United States; and to confer this right only on citizens of the United States. This amendment was adopted, 23 to 21. The bill was passed the next day, by a vote of 37 to 14.

In the house, a bill had been reported on the 31st of January, by Mr. Richardson, of Illinois, for which, on the 8th of May, he offered a substitute, which was substantially the senate bill, leaving out the amendment of Mr. Clayton. On the 22d, this substitute was adopted, 113 to 100, and sent to the senate, where, on the 25th, it was concurred in, 35 to 13.

Thus terminated another contest on a question which, after a brief slumber, had been unexpectedly, and, as is generally believed, unnecessarily revived, and which, from its nature, must continue to be a source of sectional controversy so long as the territory of this republic shall be divided between slavery and freedom.

CHAPTER LXXVI.

KANSAS-NEBRASKA ACT—EARLY HISTORY OF KANSAS—TOPEKA GOVERNMENT.

THE following are some of the principal provisions of the "Act to organize the Territories of Kansas and Nebraska."

The executive power is vested in a governor appointed by the president and senate.

A secretary of the territory, appointed for five years.

The legislative power to be vested in the governor and a legislative assembly consisting of a council and a house of representatives; the council to consist of thirteen members, and the house of twenty-six. The latter may be increased, but may not exceed thirty-nine.

The first election of members of the legislature was to be held at such time and place, and was to be conducted in such manner, as the governor should prescribe. He was also to appoint the inspectors of election, and to direct the manner of making the returns.

All free white male inhabitants, twenty-one years of age and upward, actual residents of the territory, and citizens of the United States, or having declared on oath their intention to become citizens, were entitled to vote at the first election; the qualifications of voters at subsequent elections to be prescribed by the legislative assembly.

Bills passed by the legislature were to be submitted to the governor; but might be passed against the veto by two-thirds majorities.

The judicial power was to be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court to consist of three judges, one in each judicial district, and one of them to be chief-justice. They were to be appointed by the president and senate.

The first election of delegates to congress, and the time and places of election, were subject to the appointment and direction of the governor.

The act also provided that the acts of congress for the reclamation of fugitive slaves should extend to the territories. Not the least important was the following:

That the constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said territory as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the union, approved March 6th, 1820, which, being inconsistent with

the principle of non-intervention by congress with slavery in the states and territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act, not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States: Provided, that nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery.

This organic law has received different constructions. It was generally supposed, at the time of its passage, that by the right of the people of a territory to govern themselves without the intervention of congress, which was termed "popular sovereignty," or, as expressed in the act, their being "free to form and regulate their domestic institutions in their own way," the authors meant the right to prohibit as well as to permit slavery. But it was subsequently contended that the right to hold slaves in the territory exists under the constitution; and that the people, by their territorial legislature, can not prohibit or abolish slavery; that the power is possessed by the people only when they are authorized to form a state government.

It was the general opinion that Kansas was designed to be made a slave state. Immediately after the passage of the Kansas-Nebraska act, emigration from Missouri to Kansas commenced, and was soon followed by emigration from other slave states. From the northern and eastern states also emigration commenced at an early day, and was in a measure facilitated by eastern Emigrant Aid Societies, under whose auspices companies were formed, by whom and other northern people, large accessions were made to the population of Kansas. And while it was the object of the settlers from the slave states to effect the establishment of slavery in the territory, it was the purpose of those from the free states to prevent it.

Soon after the act of organization was passed, meetings, some of them attended by leading citizens of Missouri, were held in various parts of the territory, at which were passed resolutions similar to the two following, adopted at one of those meetings:

"That we will afford protection to no abolitionist as a settler of this territory.

"That we recognize the institution of slavery as already existing in this territory, and advise slaveholders to introduce their property as early as possible."

In October, 1854, Governor Andrew H. Reeder and other officers appointed by President Pierce, arrived at Fort Leavenworth. Before any election had been held in the territory, a secret political society was formed in Missouri, known by different names, as "Social Band," "Friends' Society," "Blue Lodge," "The Sons of the South." Its members were bound together by secret oaths, and had passwords, signs, and grips, by which they were known to each other. Their avowed purpose was to extend slavery into Kansas, by organizing and sending men into the territory to vote at elections.

Pursuant to appointment by the governor, an election was held on the 29th of November, 1854, to choose a delegate to congress. The principal candidates were John W. Whitfield and J. A. Wakefield. The former was regarded as an ultra pro-slavery man; the latter was a free-state man. The election was declared in favor of Whitfield; but was pronounced by his opponents to be unlawful, as large numbers—in some districts a majority—of the votes had been cast by citizens of Missouri, who had come into the territory for that purpose, and returned immediately after they had voted. From the report of a committee of investigation appointed by the house of representatives of congress, it appears that, in nine of the seventeen election districts, of the aggregate number of voters, more than two-thirds were non-residents.

In January and February, 1855, the governor caused an enumeration to be taken of the inhabitants and voters in the territory. There were 8,501 inhabitants, of whom 2,905 were voters. The governor then ordered an election to be held on the 30th of March, 1855, for choosing members of the legislative assembly. By an organized movement in Missouri, companies of men were again sent into the territory before the election. They declared their right and determination to vote; and in one district, their demand to be allowed to vote without being sworn being refused, a number of them rushed into the room, threatening to eject the judges of election if they did not resign in five minutes. The judges were dispersed, and new judges were chosen.

Many protests were entered, and affidavits and petitions filed, against the alleged fraudulent returns from several districts. The governor, without deciding upon his power to set aside elections for force and fraud, set them aside in some of the districts for the following reasons: In one district, because the words, "by lawful resident voters," were stricken from the returns. In several others, for material erasures of words from the printed form of the oath. In another, because the oath was administered by a person not authorized. In another, be-

cause the judges were not sworn at all. Although the fraud and force in other districts were equally great as in these, yet, as the governor had no information in regard to them, he issued certificates of election according to the returns, and ordered a new election in the six contested districts, to be held in May. The pro-slavery party took no interest in this election, having determined not to recognize it, except in the Leavenworth district, where they reelected their candidates. In the other districts, free-state men were elected.

The reasons offered in justification of the part taken by the Missourians in the election of March, 1855, were: that men had been sent into the territory by the New England Aid Society of Boston, to control the elections, and had voted and returned; and that others in the eastern and northern states had been induced to go into the territory solely to vote in order to make it a free state; and that the governor had purposely postponed the day of election to allow this emigration to arrive, and had notified the Emigrant Aid Society and persons in the eastern states of the day of election, before he gave notice to the people of Missouri and the territory. These allegations, however, the free-state men denied; although it has been shown that in one or more of the election districts, some votes were given for the free-state candidates by men who had not yet become actual settlers, and who, having become dissatisfied with the country and its political condition, and from other causes, had returned after the election. The result of the election, however, was not affected by their votes.

In April, 1854, the Massachusetts Emigrant Aid Society was incorporated, but never went into operation. Two others were subsequently formed, one in July, 1854, the other in February, 1855, and were incorporated by the legislature. Their declared object was that of "directing emigration westward, and aiding and providing accommodations for the emigrants after arriving at their place of destination." It appears that the societies imposed upon the emigrants no condition, nor inquired into their political, religious, or social opinions; and their purposes, so far as could be ascertained, were lawful.

Two of the congressional committee of investigation (whose appointment will be hereafter noticed) regarded the charges against the Aid Societies and other northern people as pretexts to induce an armed invasion to control the elections and establish slavery; and they cite, as evidence, the testimony of several witnesses, among whom was Col. John Scott, of Missouri, who said in his deposition: "The leading purpose of our intended removal to the territory is to determine the domestic institutions of this territory when it comes to be a state; and we would not come but for this purpose." Also at a public meeting,

attended and addressed by Judge Leconte and others, it was, "Resolved, That the institution of slavery is known and recognized in this territory; . . . and we warn all persons not to come to our peaceful firesides to slander us and to sow the seeds of discord between the master and the servant; for, as much as we deprecate the necessity to which we may be driven, we can not be responsible for the consequences."

Upon the assembling of the territorial legislature, seats were refused to the free-state men elected at the May election, and given to those elected on the 30th of March. The legislature met on the 2d of July, 1855, at Pawnee City, the place appointed by the governor, in the interior of the territory. On the 4th, a bill was passed to remove the seat of government to Shawnee Mission, near the Missouri border. The bill was vetoed by the governor, but afterward repassed by two-thirds majorities, and became a law. He subsequently refused to sign several other bills, and on the 31st of July he was officially notified of his removal from office. The duties of the office of governor now devolved upon Daniel Woodson, the secretary of the territory.

The great body of general laws enacted by this legislature were exact transcripts from the Missouri code. The material differences between the statutes of Missouri and Kansas, were in the qualifications and oaths of voters and public officers, and in the slave codes. Executive and judicial officers were to be appointed by the legislature, or by some officers appointed by it; and the persons appointed were to hold over two regular elections, and until after the general election in October, 1857, when the members of the new council were to be elected. The new legislature was to meet on the first Monday of July, 1858.

It was also enacted that no session was to be held in 1856; but the members of the house were to be elected in October of that year. A candidate, to be eligible at this election, must swear to support the fugitive slave law; and each judge of election, and each voter, if challenged, must take the same oath, which was also required of officers elected or appointed in the territory, and of attorneys admitted to practice in the courts. Jurors were to be selected by the sheriff, and "no person who was conscientiously opposed to the holding of slaves, or who did not admit the right to hold slaves in the territory, should be a juror in any cause" affecting the right to hold slaves, or relating to slave property.

The slave laws were extremely rigorous. Any person printing, writing, publishing, or circulating any paper, book, or circular, containing anything "calculated to promote a disorderly or dangerous disaffection among the slaves, or to induce them to escape from the service of

their masters, or to resist their authority," or any person assisting in such writing, publishing, etc., was to be deemed "guilty of a felony, and be imprisoned at hard labor not less than five years." And any free person asserting or maintaining that persons had no right to hold slaves in the territory, or causing to be published or circulated any book, paper, or circular containing a denial of such right, was to be deemed guilty of a felony, and punished by imprisonment at hard labor for a term of two years.

While the legislature was in session, a movement was made by the free-state settlers to form a state government, and to apply for admission into the union as a state. The first general meeting was held in Lawrence on the 15th of August, 1855, at which it was resolved, that, "as the people of Kansas had been, since its settlement, without any law-making power," all *bonâ fide* citizens were requested "to consult together in their respective election districts, and elect delegates to assemble in convention at Topeka, on the 19th day of September, 1855, to consider and determine upon all subjects of public interest, and particularly upon that having reference to the speedy formation of a state constitution, with an intention of an immediate application to be admitted as a state into the union."

Meetings were accordingly held in various places. One of them, held at Big Springs, September 5, was attended and addressed by Ex-Gov. Reeder, who, after his removal, acted with the free-state party. This meeting denied the validity of "the tyrannical enactments of the spurious legislature," and declared the right of every freeman "to resist them." They denounced a majority of the supreme court for having "prejudged the case of the free-state men before they could be heard," and for having "pledged themselves to these outlaws in advance to decide in their favor." They repudiated the election law, and resolved not to attend the election, but would themselves appoint a day for electing a delegate to congress. They resolved to resist the territorial laws "to a bloody issue," if "peaceable remedies should fail, and forcible remedies should furnish reasonable prospects of success," and recommended the "organization and discipline of volunteer companies, and the procurement and preparation of arms."

Agreeably to the resolution of the meeting at Lawrence, delegates were elected, who met at Topeka on the day above named, and adopted measures preparatory to an election to be held on the second Tuesday of October, 1855, for choosing delegates to the proposed constitutional convention. Delegates were accordingly elected; and at the same election Ex-Gov. Reeder was chosen delegate to congress.

The delegates to the convention met at Topeka on the 23d of Octo-

ber, 1855, and formed a constitution, which was adopted by the people at an election on the 15th of December. The number of votes for the adoption was 1,731; against it, 46; the pro-slavery party taking no interest or part in the election.

Members of the state legislature and state officers were elected on the 15th of January, 1856. The legislature assembled at Topeka on the 1st of March, and proceeded to organize a state government. Dr. Charles Robinson, who had been elected governor, delivered his inaugural address. A committee was appointed to frame a code of laws for the future state in case it should be admitted into the union; and two United States senators, Andrew H. Reeder and James H. Lane, were chosen. A memorial to congress was prepared; and the legislature adjourned to the 4th of July, 1856.

After the adjournment, Governor Robinson and several other prominent actors in this movement were arrested on a charge of high treason, and held in confinement four months. They repeatedly demanded a trial, but it was not granted. At length, Judge Lecompte, having heard that General Lane was marching with his army to release them, consented to discharge them on bail. About eight months thereafter, the district attorney entered *nolle prosequis* in their cases, and they were discharged.

The members of the Topeka legislature having assembled on the morning of the 4th of July, pursuant to adjournment, they were visited by Marshal Donaldson, who caused to be read a proclamation of President Pierce, issued in February preceding, in which he declared that the laws of the Shawnee legislature should be enforced by the entire force of the government. A proclamation to the same effect from Acting-Governor Woodson was delivered. Col. Sumner, at the head of about two hundred men, appeared in front of the hall, and informed the people that he had come to disperse the legislature. The members readily obeyed the order, and no organization was attempted.

Wilson Shannon, of Ohio, successor to Governor Reeder, assumed the executive functions on the 1st of September, 1855. He had expressed his determination to promote the interests of the pro-slavery, or "law and order party;" the latter name having been given to it from its insisting on the enforcement of the territorial laws. But from the want of moral courage, as some supposed, or from some other cause, he failed to fulfill the expectations of his friends. On the occasion of a meditated attack upon the town of Lawrence, he proceeded thither, and proposed to Robinson and Lane that they should surrender their arms, as a means of safety and peace, which they declined. Instead of encouraging an assault, he entered into a treaty of pacification with

these two free-state leaders. These two last, in behalf of the citizens of Lawrence, pledged their aid in the execution of legal process against free-state offenders; declared that they designed no resistance to the legal service of any criminal process; and pledged their influence to preserve order in the town and vicinity: provided that persons arrested in Lawrence and vicinity, while a foreign foe remained in the territory, should be examined before a United States district judge of the territory, in that town, and admitted to bail; that all citizens arrested without legal process should be released; and that Governor Shannon should endeavor to obtain remuneration for damage, if any had been suffered from unlawful depredations committed by the sheriff's *posse* in Douglas county. And further, Gov. Shannon stated that he had not called upon the residents of any state to aid in executing the laws, believing that he had no authority to do so; and that he would not call upon the citizens of any other state who might be there. Signed December 8, 1855.

By this act and others of a pacificatory nature, Governor Shannon disappointed his pro-slavery friends, who felt, as expressed by one of their papers, that "a northern governor had cheated them out of their just revenge." He continued in office, however, until the 21st of August 1856, when he was officially informed of his removal, and Secretary Woodson again became acting governor.

CHAPTER LXXVII.

MEETING OF CONGRESS.—ACTION OF CONGRESS ON KANSAS AFFAIRS.—REPORTS OF COMMITTEES.—TROUBLES IN KANSAS.—ACTS OF CONGRESS.

THE 1st session of the 34th congress commenced on the 3d of December, 1855. But the house was not organized by the election of a speaker until the 2d of February, two months having been spent in unsuccessful attempts at an election. After the 129th ballot, it was agreed to adopt the plurality rule. If, on or before the third ballot thereafter taken, no person should receive a majority, then, on the next trial, the person receiving the highest number of votes was to be declared elected. Thus, on the 133d ballot, Nathaniel P. Banks, of Massachusetts, was elected; having received 103 votes, and William Aiken,* of South Carolina, 100.

The annual message of President Pierce was transmitted to congress

on the 31st of December. Besides the topics usually embraced in presidential messages, the troubles in Kansas are briefly noticed ; it being doubtless intended to present them more in detail in a subsequent communication. Much space, however, is devoted to the constitutional rights of the states ; the acquisition and disposal of territory as affected by the question of slavery ; the disregard, on the part of the free states, of their constitutional obligations, by their interference in the domestic affairs of the slave states, and a vindication of the latter from the charge of aggression upon the rights and interests of the former.

On the 24th of January, 1856, the house not yet being organized, the president sent a special message to congress on the state of affairs in Kansas. He contrasts the prompt and tranquil organization of Nebraska with the long-delayed organization of Kansas. This delay he attributes to the tardiness of the governor in reaching the seat of government, and in ordering the taking of the census ; in consequence of which the legislature was not elected until the 30th of March, and did not assemble until the 2d of July, 1855. He also charges the governor with a want of vigilance ; with not having put forth all his energies to prevent or counteract the tendencies to illegality ; and with having allowed his attention to be diverted from official obligation by other objects, and set an example of the violation of law ; for which he had removed him from office.

He mentions, as one cause of the difficulties, "the extraordinary measure of propagandist colonization of the territory, to prevent the free and natural action of its inhabitants in its internal organization, and thus to anticipate or to force the determination of that question (slavery) in this inchoate state." And he makes special allusion to the Emigrant Aid Societies, whose "designs and acts had the necessary consequence to awaken emotions of intense indignation in states near to the territory of Kansas," and especially Missouri, "whose domestic peace was thus the most directly endangered."

Although accusations abounded on all sides of illegal voting, and of fraud and violence, the governor's having received the election returns, and declared a large majority of the members "duly elected," had given "complete legality to the first legislative assembly."

He says : "The allegation that the acts of the legislative assembly were illegal by reason of this removal (to the Shawnee Manual Labor School), was brought forward to justify the first great movement in disregard of law within the territory." The election of a delegate to congress by the free-state party, he pronounces to have been "without authority." Such also was the formation and adoption of their constitution and the election, under it, of state officers and a representative

to congress. These acts he considered of a revolutionary character ; and if they reached the length of organized resistance, they would become treasonable insurrection. Bound to see the laws faithfully executed, if they were opposed in Kansas, he should call out the public force, and, if necessary, the militia of one or more states. It was not his duty, he said, to volunteer interposition by force to preserve the purity of elections in a state or territory. The people had a right to regulate their own social institutions. Interference, on the one hand, to procure the abolition or prohibition of slave labor in the territory had produced mischievous interference on the other, for its maintenance or introduction. Inflammatory agitation had, for twenty years, produced nothing but unmitigated evil. But for this, the character of the domestic institutions of the future new state would have been of too little interest to the people of contiguous states to produce among them any political emotion, and the present disturbing question would have been quietly determined.

The president suggested, that when the population should be sufficient to constitute a state, the regular steps should be taken to frame a constitution, and thus to prepare for admission into the Union. He recommended the enactment of a law to that effect. He also recommended a special appropriation to defray any expense which might become requisite to execute the laws and maintain public order in the territory.

In the senate, the message was referred to the committee on territories, and on the 12th of March, 1856, Mr. Douglas, the chairman, made an elaborate report. He discusses the question whence congress derives authority to organize temporary governments for the territories. A state is a sovereign power, limited only by the Constitution of the United States. There is no authority for putting a restriction upon the sovereignty of a new state which the Constitution has not placed upon the original states. The power to organize temporary governments is not granted in the "power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." This clause confers power only to provide for surveying the public lands, and exposing them to private and public sale, issuing patents, confirming titles, etc. ; in short, for making rules and regulations for protecting and disposing of the public domain and other public property of the United States, which power extends to the lands and other property of the United States as well as in the territories. Mr. D. deduces the power in question from the power to pass laws necessary and proper to carry into effect some other power specifically granted. He considers the organization of a terri-

tory as a proper means of enabling its people to form their domestic institutions, and to establish a state government preparatory to admission. Such was the design of the Kansas and Nebraska act.

The report imputed to the Eastern Aid Societies the design of forcing into the Union a free state. It admits the right of citizens coming into the territory as actual settlers, in case of ordinary emigration, to vote at elections and participate in the control of its government ; but considers it a very different thing when a state creates a moneyed corporation to control the domestic institutions of a distinct and distant political community, by sending out emigrants for that purpose. This led the people of the western counties of Missouri, by a similar system of emigration, to counteract this design, and to protect themselves and the domestic institutions of their own state, which they apprehended would be endangered by the abolitionizing of Kansas.

The committee consider it no part of their duty to examine and review the laws of the Kansas legislature. The internal concerns of the territory are confided to the people through their representatives, and not to congress. The question as to the validity of the laws is a judicial question, to be determined by the courts of justice.

The committee commend the messages and proclamation of the president, which give the gratifying assurance that the rebellion will be crushed ; aggressive intrusion for controlling elections will be repelled ; the federal and local laws will be vindicated against all attempts of organized resistance ; and the people of the territory will be protected in the establishment of their own institutions.

The report closes with a response to the recommendations of the president in his special message.

Mr. Collamer, of Vermont, dissenting from the report of the committee, submitted a minority report, of which the following is an abstract :

Thirteen states of this union have passed peacefully through the period of pupilage of territorial training preparatory to admission. A territory of our government is now convulsed with violence and discord. The national executive power is put in motion, the army in requisition, and congress is invoked for interference. It becomes necessary to inquire into the cause of existing trouble.

The object of the action of congress has been to settle clearly the law in relation to slavery to be operative in the territory while it remains such, not leaving it to be a subject of controversy within the same. This had been done for *sixty* years under the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Settling the subject of slavery is no higher exercise of power than regulating the

functions of the territorial government and appointing its principal functionaries. Peace, prosperity and success have attended this course. The rule was this : where slavery existed to any considerable extent, it has been suffered to remain. Where it did not exist to any great extent, it has been expressly prohibited. The subject has been regarded, too, as one in which the whole country has an interest.

Mr. C. alluded to the Missouri Compromise, by which a northern boundary to slavery had been fixed. But by the Kansas and Nebraska act, the subject had been left to be discussed, agitated and legislated on in the territories. This had opened a course for rivalry between the friends of liberty and those of slavery. It was the right of those who believed in the blessings of slavery to aid in making the territory a slave state, either by becoming settlers and voters, or by inducing others to do so. And so it was the right of those who believed slavery an evil, to adopt the same means for making it a free state ; and if it could be best done by voluntary associations or corporations, it was equally lawful and laudable to use such means. It was not to be expected that the people of the free states, who regarded the act of 1854 as a double breach of faith, would sit down and make no effort by legal means to correct it.

Mr. C. adverted to the character of the elections, which had been carried by fraud and violence by invaders from an adjacent state ; to the acts of the legislature for the security of slavery by severe penalties ; and to the acts of the governor, his removal, etc. Instead of permitting the people to elect officers, the legislature had created offices and filled them, or appointed officers to fill them for long periods ; so that no change of laws or officers could be effected by the people until after a change of the council, which was elected for two years. There was no excuse for the oppressive laws of the legislature in the pretense that the inhabitants had carried with them into the territory a quantity of Sharpe's rifles, even if true ; but it was untrue, as these rifles had been obtained afterward, for the purpose of self-defense. The laws were obviously intended to oppress and drive out the opponents of slavery, and, if they remained, to silence them, and subject them to the control of the people of Missouri. The laws, the president said, must be enforced by the army and power of the nation. The people, seeing their government used to crush them, had proceeded, under the guaranty of the Constitution, "peaceably to assemble to petition the government for the redress of grievances." Seeing no source of relief but in the formation of a state government by the people and its ratification by congress, they had acted accordingly.

Congress having been informed by the president that he has no

power to correct a usurpation, and that the laws, even though made by usurped authority, must be by him executed, even with military force, it was proper to inquire what should be done by congress. Let the act of 1854 be repealed, and Kansas be organized anew as a free territory ; and all would be put right.

On the 17th of March, 1856, Mr. Douglas reported a bill, notice of which was given in his report. This bill authorized the legislature of the territory of Kansas to provide by law for a convention, to form a constitution and state government, preparatory to their admission into the union on an equal footing with the original states, so soon as it should appear, by a census to be taken under the direction of the governor, by authority of the legislature, that the territory contained 93,420 inhabitants, that being the number required by the present ratio of representation for a member of congress. The debate on this bill continued until the 2d of July, when, having received several amendments, it was passed : yeas, 33 ; nays, 12.

On the 19th of March, 1856, the Kansas contested election being under consideration in the house, a resolution was adopted, authorizing the appointment of a committee of three members, to inquire into the troubles of Kansas generally, and particularly in regard to any fraud or force in reference to the elections. The committee appointed in pursuance of the resolution, consisted of John Sherman, of Ohio ; William A. Howard, of Michigan ; and Mordecai Oliver, of Missouri. They proceeded to Kansas, where they spent several weeks in collecting evidence ; and made their report to the house on the 1st of July, 1856. The report, including the testimony, makes a volume of 1,200 pages. The sketch of the history of the affairs of Kansas in the preceding chapter, is taken principally from this report. Only a few additional statements contained in the report will be given.

The committee express the opinion that the elections held by the free-state party, whether conducted in pursuance of law or not, were not illegal. They were proper, in accordance with examples, both in states and territories. They were attended with acts of violence on the part of those who disapproved this movement for the organization of a state government.

In the fall of 1855, out of the existing discord and excitement, there sprang up two secret free-state societies. They were defensive in their character. One of them was confined to the town of Lawrence. It soon produced its desired effect, and ceased to exist. Both societies were cumbersome, and served only to give confidence to the free-state men, and enabled them to know and aid each other in case of danger. There was no evidence of their having led to acts of vio-

lence in resistance to either real or alleged laws. One of the societies alluded to by the committee was probably the "Kansas Legion," which, however, was formed early in the year. Its object was declared to be, first, to secure to Kansas the blessing and prosperity of being a free state ; and, secondly, to protect the ballot-box from the leprous touch of unprincipled men." It evidently contemplated the employment of force, if necessary, in carrying out its purposes.

The conclusions of the committee, as established by the testimony, were, substantially, as follows :

That the elections under the organic or alleged territorial law, had been carried on by organized invasions from Missouri.

That the alleged territorial legislature was an illegally constituted body, and had no power to pass valid laws.

That these alleged laws had not, generally, been used to protect persons and property, and to punish wrong, but for unlawful purposes.

That neither John W. Whitfield, the sitting delegate, nor Andrew H. Reeder, the contestant, was entitled to a seat, as neither had been elected in pursuance of any valid law.

That Reeder had received the greater number of votes of resident citizens.

That a fair election could not be held in the territory without a new census, a stringent election law, impartial judges, and the presence of United States troops at every place of election.

That the elections preliminary to the formation of the state government had been as regular as the disturbed state of the territory would allow ; and that the constitution formed by the convention held in pursuance of said elections, embodies the will of a majority of the people.

Mr. Oliver, the minority member of the committee, made an adverse report. The election for the legislature had been held pursuant to Governor Reeder's proclamation ; the returns had been made to him, and he had set aside the election of but nine of the twenty-six members of the house, and three of the thirteen elected as members of the council, and had certified the election of others ; he had ordered new elections in the disputed districts ; he had convened the legislature on the 1st of July, 1855, and communicated with and recognized them as a properly constituted body ; and never until August, 1855, after he had been removed, did he object to their election. These facts, in the opinion of Mr. Oliver, rendered the acts of the legislature valid, even if illegality in voting had been proved. He affirmed that the weight of testimony showed that a majority of the legal voters in fourteen of the eighteen districts were in favor of the party electing a majority of the legislature ; and it was far from conclusive that there was not a

like majority in the other districts. Nor did it appear to him that the election had been carried by force, violence, or non-residents.

As to the societies named by the majority, designed to make Kansas a slave state, their object was to counteract other organizations, first started, to make it a free state. The Kansas Aid Society was formed in Washington by members of congress and others, immediately after the passage of the Kansas Nebraska act. Large numbers sent out by the eastern aid societies, went into the territory just before the election, in March, 1855, and many had been seen returning after election. Many of the Missourians had gone over on the day of the election to prevent illegal voting by eastern emigrants.

In stating his conclusions, he gives a direct negative to those of the majority.

We have not room, nor is it properly our province, to record the numerous murders and other acts of violence reported by the committee. For a history of these and the "civil war," so called, which for a time prevailed in the territory, the reader is referred to other sources.

The Kansas judiciary was no less obnoxious to the free-state men than was the legislature. It was charged with partiality and inefficiency. At the Douglas county court, in May, 1856, Judge Lecompte, in his charge to the grand jury, declared that, as the legislature was the instrument of congress in governing the territory, those who resisted the territorial laws were guilty of high treason against the United States. If only combinations had been formed for the purpose of resisting them, the aiding and abetting of such combinations was *constructive* treason, "as the courts had decided that, to constitute treason, the blow need not be struck, but only the *intention* must be made evident." A presentment was accordingly made, in which the grand jury declared that the Herald of Freedom and the Kansas Free State, newspapers, had denied the legality of the territorial authorities, and published resolutions of public meetings, in which resistance to the laws had been agreed upon; and that they were satisfied that the Free State Hotel in Lawrence had been constructed with a view to military occupation and defense, and designed as a stronghold of resistance to law: and they recommended their abatement as *nuisances*. Soon after this the hotel was burned, and the two presses were destroyed, by direction of Sheriff Jones, acting in obedience to writs issued for that purpose by the first district court of the United States.

On the 7th of April, 1856, the constitution framed at Topeka was presented to congress. In the senate, the application for the admission of Kansas as a free state under the constitution was rejected. Yeas, 16.

In the house a majority of the committee reported in favor of such admission. Before the question was taken on the bill, Mr. Stephens, of Georgia, proposed as a substitute, a bill which provided for taking a census of the inhabitants and legal voters of the territory, and electing delegates, to assemble in convention on the first Monday of December, 1856, to form a constitution.

Mr. Dunn, of Indiana, proposed to amend this substitute bill, by adding a section intended to repeal that part of the section of the Kansas-Nebraska act which declares the Missouri compromise of 1820 inoperative and void, and recognizes the principle of non-intervention by congress with slavery in the territories. The proposed additional section also provided to discharge from service all slaves remaining in the territory after twelve months. Mr. Dunn's amendment was carried, 109 to 102. The bill, though thus amended, was, as a whole, acceptable to neither party; receiving only the votes of Mr. Harrison, of Ohio, and Mr. Dunn.

Mr. Jones, of Tennessee, moved that the bill reported by the committee be laid on the table. This motion was lost: yeas, 106; nays, 107. After an animated contest, the final question was taken, and the bill rejected, 107 to 106. A motion by Mr. Barclay, of Pennsylvania, on the 1st of July, to reconsider this vote, was carried on the 3d of July, 101 to 99; and the bill was passed, 99 to 97.

In the senate, several bills having been submitted for settling the troubles in Kansas, Mr. Douglas, on the 30th of June, reported on the same, and also against the proposition of Mr. Seward, to admit Kansas under the Topeka constitution. Mr. Douglas' bill proposed to reorganize Kansas, and gave the right of suffrage to alien residents who had declared their intention to become citizens. This provision, on motion of Mr. Adams, of Mississippi, was struck out, 22 to 16. The bill was further amended, by adding a provision forbidding any law which should require any attestation or oath to support any act of congress, or any other legislative act, as a qualification for office, as juror, or as a voter, or which should restrain the free discussion of any subject of legislation, or the free expression of opinion thereon. Carried, 40 to 3.

Mr. Trumbull, of Illinois, offered a section, declaring that, prior to any act of the territorial legislature, slaves could not be lawfully held in the territory. Lost: yeas, 9; nays, 34. He then proposed a section declaring that the organic act "was intended to, and does, authorize the people of Kansas, through the legislature, to exclude slavery, or to recognize and regulate it. Lost: yeas, 11; nays, 34. He then proposed sections declaring all previous acts of the territorial

legislature null and void, and prohibiting any person from holding office or exercising any authority derived from the legislative assembly, and the members thereof from exercising any power as such. Lost : yeas, 11 ; nays, 36.

Mr. Collamer, of Vermont, proposed a section prohibiting slavery, but allowing the reclamation and return of fugitive slaves. Lost : yeas, 10 ; nays, 35. A motion of Mr. Wilson, of Massachusetts, to strike out the whole bill, and insert another repealing all the territorial laws, was lost : yeas, 8 ; nays, 35 ; as was a motion by Mr. Seward to strike out the whole bill, and insert one admitting Kansas under the Topeka constitution, 11 to 36.

The bill, as amended, was reported to the senate, and passed : yeas, 33 ; nays, 12. It was entitled, "An act to authorize the people of the territory of Kansas to form a constitution and state government preparatory to their admission into the union on an equal footing with the original states." The bill was sent to the house, where it was not acted on.

In the senate, on the 8th of July, the bill from the house was amended by striking out all after the enacting clause, and inserting the bill of the senate above referred to ; but it was not acted upon by the house.

In the house, on the 29th of July, Mr. Dunn proposed a bill "to reorganize the territory of Kansas, and for other purposes." Mr. Grow, of Pennsylvania, from the committee on territories, had, on the 27th of February, reported a bill to annul certain acts of the Kansas legislature, and to secure to the citizens their rights and privileges. For this bill, that of Mr. Dunn was offered as a substitute. It contained a provision to revive the Missouri¹ compromise act ; but slaves lawfully held in the territory were not to be discharged from service, if removed from the territory prior to the 1st of January, 1858 ; and fugitive slaves were to be surrendered.

The free-state members now found themselves in a dilemma. To vote for the bill would be to recognize and sanction slavery in the territory ; to vote against it would give fresh occasion for the charge of desiring to protract the Kansas difficulties with a view to party effect. But as there were as yet few slaves in the territory ; and as the early termination of slavery therein at an early day would be rendered certain, and its existence probably shortened, by the passage of the bill, the anti-slavery members generally voted for the bill, and it was passed : yeas, 88 ; nays, 74. This bill was not acted on in the senate.

Nothing being likely to be done by direct legislation for terminating the troubles in Kansas, the house affixed to the legislative, executive, and judicial appropriation bill, three provisos : 1. That no part of the

money appropriated should be paid, until all pending prosecutions in Kansas for alleged violations of the laws of the Shawnee legislature should be dismissed ; 2. Nor for the compensation of the members, officers, and contingent expenses of the next territorial legislature ; 3. Nor for prosecuting any other persons charged with treason or other political offenses in the territory. These provisos were opposed by the senate ; and the first and third were given up by the house. The second being finally agreed to, the passage of the bill was secured.

But the army appropriation bill was not passed when the session expired, (August 18th, 1856,) as the two houses could not agree upon a proviso annexed by the house, forbidding the employment of any part of the military force of the United States to enforce the enactments of the Kansas legislature, until congress had enacted that it was or was not a valid legislature, lawfully elected ; and requiring the president, until such enactment by congress, to use the military force to preserve peace, repel invasion, and protect persons and property, and to disarm the organized militia of the territory, &c.

The necessity of providing for the support of the army, induced the president to call an extra session of congress on the 21st of August, after a recess of three days. The bill was again passed by the house, but the proviso was struck out by the senate. The struggle continued until the 30th, when the house concurred with the senate, 101 to 97.

Among the acts passed during the first or regular annual session, was one to change the compensation of members of congress. Instead of \$8 a day, they were to be allowed a salary of \$3000 a year ; mileage \$8 for every 20 miles travel, to remain unchanged. Reductions were to be made for each day's absence, except for the cause of sickness of a member himself, or of some member of his family.

An important discussion in the senate, at this session, sprang out of our relations with Great Britain. By the treaty of April, 1850, called the Clayton-Bulwer treaty, the two governments covenanted, that neither would ever occupy, colonize, or exercise dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America. The president in his annual message informed congress that Great Britain claimed rights in that country which were not conceded by the treaty. This "Central American question," involved the "Monroe doctrine," so called from its having had its origin in the administration of President Monroe, who, in his annual message to congress, in 1823, asserted "as a principle, that the American continents were henceforth not to be considered as subjects for future colonization by any European Power." The occasion of this declaration was the apprehended inter-

ference, by the Allied Powers of Europe (the Holy Alliance) in the contest between Spain and her revolting South American colonies. He said, "as it was impossible for these Powers to extend their system to any part of America without endangering our peace and happiness, we should not behold such interference with indifference."

It is, however, the opinion of some of our statesmen, that this declaration of Mr. Monroe was intended, not as a principle for all future time, but only for the occasion on which it was uttered, and to cease at the expiration of this European league.

At this session were passed acts granting public lands to the states of Florida, Alabama, Mississippi, Louisiana, Michigan, and Wisconsin, to aid in the construction of railroads in those states. By these acts, every alternate section of land, for six sections in width, on each side of a railroad, is granted for that purpose; and the sections remaining to the United States are not to be sold for less than double the minimum price of the public lands when sold; nor shall they be subject to private entry until they shall have been first offered at public sale at the increased price. The wisdom of this policy is by many considered questionable. Private interest, they believe to have been quite as powerful a motive in making these grants, as the public good. Similar grants have since been made for railroads in other states.

Four several bills, two for the improvement of the navigation of the Mississippi river, and two for deepening channels over the St. Clair and St. Mary's flats, were vetoed by the president, for the reason that the general government has not the constitutional power to prosecute internal improvements. These bills were all subsequently passed by two-thirds majorities.

CHAPTER LXXVIII.

PRESIDENTIAL ELECTION OF 1856.—ACTS OF CONGRESS, 1856-7.—KANSAS AFFAIRS.—PRESIDENT BUCHANAN'S INAUGURAL ADDRESS.—OPINION OF THE SUPREME COURT.—LECOMPTON CONSTITUTION.

THE presidential canvass of 1856 was one of unusual interest and animation. One of the effects of the repeal of the Missouri compromise, had been a union of the opponents of slavery extension under the name of republicans. State republican organizations were formed in 1855; and a convention of delegates from free states was held at

Pittsburg on the 22d of February, 1856, with a view to the formation of a national party. At this convention, resolutions were adopted containing the leading principles which constitute the present basis of the republican party.

Besides the two principal parties, the democratic and the republican, was the American party, which had its origin in secret organizations throughout the country, whose members, called "Know-Nothings," had, in the space of two or three years, increased so rapidly in numbers as to have become truly formidable to the other parties.

The American national nominating convention was held at Philadelphia the 21st of February, 1856. Millard Fillmore, of New York, was nominated as candidate for president, and Andrew J. Donelson, of Kentucky, for vice-president. Mr. Fillmore's antecedents, previous to 1850, had been those of an anti-slavery whig. He was elected to Congress in 1838, under a pledge to the abolitionists of his district. During his congressional term, he acted with the advocates of the right of petition, of the abolition of slavery in the District of Columbia, and of kindred measures. And in 1844, after the expiration of his congressional term, he was a zealous opponent of the annexation of Texas and the extension of slavery. In 1850, as vice-president and (after Taylor's death) as president of the United States, he favored the compromise measures of that year.

The more distinctive principles of the platform adopted by the American convention, were: That Americans must rule America; and to this end, native born citizens should be selected for all government offices in preference to all others. Nor should such offices be given to persons who recognize (as is alleged that Catholics do) any allegiance or obligation to any foreign prince, potentate, or power, or who do not recognize the federal and state constitutions as paramount to all other laws as rules of political action. Foreigners should not be naturalized until after a residence here of twenty-one years. The citizens of any territory should have the right "to regulate their domestic and social affairs in their own mode, and to be admitted into the union when they have the requisite population for a representative in congress."

The Americans were not unanimous in the support of their regularly nominated candidates. A convention held in the city of New York, representing the more anti-slavery portion of the party, nominated John C. Fremont for president and Gov. Johnson, of Pennsylvania, for vice-president.

The democratic convention met at Cincinnati, June 6th, 1856. As in former conventions of this party, the two-thirds rule was adopted. The leading candidates were Mr. Pierce, Mr. Buchanan, Mr. Douglas,

and Mr. Marcy.* After several ballotings, Mr. Buchanan was chosen as the candidate of the party.

Mr. Buchanan's "antecedents" had been the reverse of Mr. Fillmore's. He was a democrat, and had acted with the representatives of slavery in congress. Also, while minister to England, himself and our ministers to France and Spain, Mason and Soulé, held a conference at Ostend, and, having offered Spain, as is said, two hundred million dollars for Cuba, which she refused, issued a manifesto, in which they say: "After we shall have offered Spain a price for Cuba far beyond its present value, and this shall have been refused, it will then be time to consider the question, Does Cuba, in the possession of Spain, seriously endanger our internal peace and the existence of our cherished union? Should this question be answered in the affirmative, then, by every law, human and divine, we shall be justified in wresting it from Spain, if we have the power." By these and other acts, Mr. Buchanan had gained the confidence of the South, which gave him its almost unanimous support.

The convention adopted the leading principles of the platform of the convention of 1852, with numerous additional resolutions. These resolutions declare, that "no party (alluding to the American party) can justly be deemed national, constitutional, or in accordance with American principles, which bases its exclusive organization upon religious opinions and accidental birthplace." They "repudiate all sectional parties and platforms concerning domestic slavery, which seek to embroil the states and incite to treason and armed resistance in the territories, and adopt, as a principle, non-interference of congress with slavery in the territories or in the District of Columbia." They approve the "Monroe doctrine," which, according to the popular construction, forbids any European power to establish a colony on the American continent. They assert the right to control "the great highway which nature has marked out for free communication between the Atlantic and Pacific oceans." They "sympathize with the efforts of the people of Central America to regulate that portion of the continent which covers the passage across the inter-oceanic isthmus;" meaning, as some suppose, the attempt of Walker to revolutionize that country. And they "expect of the next administration every proper effort to insure our ascendancy in the gulf of Mexico;" evidently referring to the acquisition of Cuba.

The republican convention was held in Philadelphia the 17th of June, 1856. The prominent candidates for nomination were Messrs. Seward, Fremont, Banks, and Judge M'Lean. Before the balloting commenced, it was announced that Mr. Seward had requested the with-

drawal of his name. The contest was mainly between Col. Fremont and Judge M'Lean. John C. Fremont was, after several ballots declared unanimously nominated.

The resolutions adopted by the convention as the platform of the republicans, "deny the authority of congress, or of a territorial legislature, to give legal existence to slavery in any territory of the United States." They claim for congress "sovereign power over the territories for their government," and "in the exercise of this power, it is both the right and the duty of congress to prohibit in the territories those twin relics of barbarism, polygamy and slavery." They charge the administration with sanctioning the numerous violations of the constitutional rights of the people of Kansas; as, the "invasion of their territory by an armed force;" the enforcement "of unconstitutional and tyrannical laws;" the requiring of "test oaths as a condition of voting and holding office;" denying "the right of a speedy and public trial by an impartial jury;" infringing "the right of the people to bear arms;" encouraging "murders, robberies, and arsons, and allowing the offenders to go unpunished," etc. They declare "that Kansas should be immediately admitted with her present free constitution;" that "the highwayman's plea, that 'might makes right,' embodied in the Ostend circular, is unworthy of American diplomacy;" that "a railroad to the Pacific ocean, by the most central and practicable route, is imperatively demanded by the interests of the whole country;" that appropriations by congress for the improvement of rivers and harbors of a national character, required for the accommodation and security of our existing commerce, are authorized by the constitution;" and they "invite the affiliation and coöperation of freemen of all parties, however differing from us in other respects, in support of the principles herein declared."

At the election in November, electors in favor of Mr. Buchanan were chosen in the states of New Jersey, Pennsylvania, Indiana, Illinois, California, and all the slaveholding states except Maryland; in all, 174 electors. Mr. Fillmore received the electoral vote of Maryland, 8 electors. Col. Fremont received the support of all the free states, except the five before mentioned, 114 electors.

The 3d session of the 34th congress commenced on the 1st of December, 1856. The next day the president's message was communicated to both houses.

The president, in noticing the election just passed, says, "the people have asserted the constitutional equality of all the states and of all the citizens of the United States, whatever their religion, wherever their birth or their residence;" and "have condemned the idea of

organizing mere geographical parties." He censures those who "seek to prevent the spread of slavery into the present or future states of the union;" says "they endeavor to prepare the people of the U. States for civil war;" that "violent attack from the North" begets "a spirit of angry defiance at the South;" that "the voice of the people has pointedly rebuked the attempt of a portion of the states, by a sectional organization and movement, to usurp the control of the government of the United States;" and mentions as among "the long series of acts of indirect aggression" upon the South, the "objecting to the admission of Missouri" as a slave state, and the prohibition of slavery in acts for the organization of territorial governments. He announces "the restoration of comparative tranquillity" in Kansas, and attributes the disturbances there to the "unjust interference on the part of persons not inhabitants of the territory."

The public debt is stated to be \$30,963,909. The average annual expenditure, deducting payments on account of the public debt, and \$10,000,000 paid by treaty to Mexico, has been about \$48,000,000; and unless some extraordinary occasion for its increase should occur, the expenditures for the ensuing five years would probably not exceed that sum: therefore, the revenue from customs, which, during the preceding year were more than \$64,000,000, might be reduced so as not to exceed \$50,000,000.

The receipts of the post-office department were \$7,620,801; and its expenditures, \$10,407,868.

Among the acts passed was "An act reducing the duty on imports;" by which the duties imposed on sundry articles by the tariff of 1846 were reduced, and some articles subject to duty were made free:

An act to aid in laying the telegraph cable across the Atlantic:

An act to authorize the people of Minnesota to form a constitution and state government preparatory to their admission into the union:

An act granting lands to the territory of Minnesota to aid in constructing railroads.

No law having reference to the affairs of Kansas was passed at this session. In the house, Mr. Grow, of Pennsylvania, reported a bill for the relief of the people of Kansas. This bill declared the enactments of the territorial legislature to have been forced upon the people in violation of the organic act, and to be therefore of no binding force or effect; and required the governor to order an election for choosing members of a new legislature, under such rules and regulations as he should direct. It also provided safeguards against unlawful and fraudulent voting.

The question on the final passage of this bill was taken on the 17th

of February, 1857, and decided in the affirmative: yeas, 98; nays, 79. The yeas, 92 republicans and 6 Fillmore men, were all from free states. Of the nays, 65 were from slave states, and 14 from free states; 20 being Fillmore Americans, and 59 democrats.

In the Senate, this bill was laid on the table, 30 to 20. Yeas, from slave states, 22; from free states, 8. Nays, from free states, 18; from slave states, 2.

Although this attempt at the pacification of Kansas failed, a manifest improvement of its condition had taken place under the administration of the then existing governor, John W. Geary. Governor Geary had been appointed in July, 1856. As it was understood that he intended not to side with either party, the pro-slavery leaders were not pleased with the appointment. They published an address, in which they complained that they had "asked a successor acquainted with their condition;" but "in his stead they had one who was ignorant of their condition, and who, they feared, would prove no more efficient than his predecessors." They therefore hastened to gather an army from Missouri and other slave states before the arrival of the governor. Acting-governor Woodson, by proclamation, declared the territory in a state of rebellion and insurrection, and called upon the territorial militia and all other citizens to aid in putting down and punishing the insurrectionists. This call soon brought in a large number of men from Missouri.

Governor Geary arrived at Fort Leavenworth the 9th of September. He immediately became witness to flagrant outrages upon the persons and property of citizens, and ordered the restoration of the property. He declared to the citizens of Lawrence his intention to do justice to all classes, and recommended forbearance, as they could ask the next legislature to revise the laws. He also ordered the discharge of the volunteer militia, the employment of which was unauthorized: the regular forces were sufficient to insure the execution of the laws. By these and other means he succeeded in greatly improving the condition of the country.

He next endeavored to increase the energy of the judges, whose inefficiency had become the subject of remark. He called upon them to render an account of their judicial labors. Their answers showed that their judicial characters had not been misrepresented. Having become convinced, from sundry acts of Judge Lecompte, that a less partial judiciary was necessary to preserve the peace of the territory, the governor communicated the facts to President Pierce, who nominated to the senate C. O. Harrison, of Kentucky, as successor to Lecompte; but the president having issued no writ of supersedeas, the senate refused to confirm the appointment of Harrison.

On the 6th of January, 1857, the free-state legislature under the Topeka constitution met at Topeka. A quorum not being present, they adjourned to the next day. On leaving the house, a deputy marshal, acting under a writ issued by Judge Cato, arrested seven of the members. But as the marshal had neither posse nor troops with him, the persons arrested refused to go with him. The legislature reassembled the next day, organized, appointed a committee to memorialize congress for admission, and another to frame an election law, and adjourned to the next day. The marshal having returned with carriages and assistants, arrested a dozen or more of the members, who made no resistance, and were taken to Tecumseh. The next day (8th) there was no quorum in either body, and their presiding officers were among the prisoners. The members of both houses met in joint session, adopted a memorial to congress, and took a recess till June. The prisoners were bound over, on their own recognizances, in the sum of \$500 each.

The territorial legislature met at Lecompton on the 12th of January. A new house had been elected; and as the free-state men had taken no part in the election, both bodies were composed entirely of pro-slavery men. The message of Governor Geary disapproved some of the acts of the previous legislature, and recommended their repeal. Among others, he mentioned those which left no officer amenable to him or to the people. But his recommendation was received with evident disfavor.

The governor had previously ordered the rearrest of Hays, who had been indicted for the murder of Buffum, and admitted to bail by Judge Lecompte, and who had been again discharged by the judge on a writ of habeas corpus. The legislature therefore passed an act allowing judges to take bail in all cases of crime whatever, whether such crimes had heretofore beenailable or not. The bill was vetoed by the governor; but it was passed against the veto with but one dissenting vote.

An act was also passed to provide for electing a convention to frame a constitution; the election to be held on the 3d Monday of June, and the delegates to meet at Lecompton on the 1st Monday of September. This act, it was believed, did not provide sufficient security for a fair election. None were to be allowed to vote who were not in the territory on or before the 15th of March. Many free-state men had left their homes during the disturbances of the past year, and would be unable to return before that day. Another objection to the act was, that it was not to be submitted to the people for their sanction or rejection. The governor had informed certain members, before its pas-

sage, that if this objection should be removed, he would waive other objections, and give the bill his approval. The reply was, that this would defeat the object of the act, which was to secure Kansas to the south as a slave state. The bill was passed, vetoed, and again passed, and became a law.

By another act, a new legislature was to be elected in October, and those only whose names were on the lists at the June election were to be entitled to vote. Thus all would be again excluded, who were not in the territory on or before the 15th of March. An act, however, abolishing the test oath imposed on voters, was passed against considerable opposition.

In his instructions from the government at Washington, the governor was told: "The president relies on your energy and discretion to overcome the difficulties which surround you, and to restore tranquillity to Kansas. The exigencies of affairs as they shall be presented to you on the spot, will indicate the course of proceeding in particular cases." But thinking that he was not duly sustained by the government, and being without power in the territory, he resigned his office at the close of Mr. Pierce's administration.

On the 4th of March, 1857, Mr. Buchanan entered upon the duties of his office as president. That part of his inaugural address which most attracted the public notice, was that relating to popular sovereignty. This doctrine had been generally understood to concede to the people of a territory, represented in their legislature, full power over slavery. But the president says:

"A difference of opinion has arisen in regard to the time when the people of a territory shall decide the question for themselves. This is happily a matter of but little practical importance, and besides, it is a judicial question which legitimately belongs to the supreme court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens, I shall cheerfully submit, whatever this may be; though it has been my individual opinion, that, under the Kansas-Nebraska act, the appropriate period will be when the number of actual residents in the territories shall justify the formation of a constitution with a view to its admission as a state into the union."

This denial to the people in a territorial condition the right to control slavery, was considered by some as an abandonment of the doctrine of popular sovereignty. The right to exclude it on adopting a constitution had never been disputed. More than this, therefore, must have been meant by leaving the people of a territory "free to form and regulate their domestic institutions in their own way." This is further

evident from the fact, that the advocates of the doctrine in question claimed for the *people of a territory* the power which their opponents claimed for *congress*.

The case in which the opinion of the supreme court was foreshadowed in the president's address, was that of Dred Scott against John F. A. Sandford. The plaintiff, a negro slave, had been taken by a former master, Dr. Emerson, from Missouri, into Illinois, and there held as a slave for about two years, and thence removed to Fort Snelling, now in Minnesota. While here, he was married to a female slave of the same master. In 1838, Dr. Emerson removed Scott, his wife, and daughter, to Missouri, where he sold them to the defendant.

Scott now sued for his freedom, and that of his wife and child, in the circuit court of St. Louis county, and obtained a judgment in his favor. The supreme court of the state reversed the judgment, and remanded the same to the circuit court, where it continued to await the decision in this case. By writ of error, the case was brought before the supreme court of the United States, where, on the 6th of March, 1857, judgment was pronounced reversing the judgment of the circuit court, and directing the dismissal of the suit for want of jurisdiction.

Chief-Justice Taney, in behalf of the majority of the court, expressed the opinion that free negroes, whose ancestors were slaves, can not become citizens. He says:

"Every person and every class and description of persons, who were at the time of the adoption of the constitution recognized as citizens of the several states, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. . . . The legislation and histories of the times, and the language used in the declaration of independence, show that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument. They had for more than a century been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in moral or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit."

The chief-justice cites the enactments of some of the colonies prohibiting the marriages of negroes or mulattoes with whites, thus "fixing a stigma of the deepest degradation upon the whole race." To include negroes among the "all men" concerning whom certain truths are affirmed in the declaration of independence, as self-evident, or

among "the people of the United States" named as the authors of the constitution, would make their conduct "utterly inconsistent with the principles they asserted." Sanctioning for a time the importation of slaves, and requiring the return of "persons held to service," further prove that the negro race were considered as a separate class of persons.

Justice Curtis, who, with Justice M'Lean, dissented from the opinion of the majority, maintained that, under the constitution of the United States, every free person born on the soil of a state, who is a citizen of that state by force of its constitution and laws, is also a citizen of the United States. He cited the old constitutions of New Hampshire, Massachusetts, New York, and New Jersey, and the decisions of North Carolina and Massachusetts, to prove that, at the time when the national constitution was adopted, *all* the free inhabitants of those states were citizens, and entitled to vote, if they possessed the necessary qualifications, of which color or descent was not one. The fact that New York, North Carolina, and New Jersey have since restricted the right of colored persons to vote, is regarded as proof of its previous existence. That the confederation was meant to confer general citizenship upon free persons of color, is inferred from the motion of South Carolina to amend the fourth article, so that only "free *white* inhabitants should be entitled to all the privileges and immunities of free citizens in the several states;" which motion was lost.

Departing from the common custom of judicial tribunals, the majority proceeded to give their opinions upon questions not involved in the case judicially before the court—questions at issue between the present political parties. These opinions were therefore held to be extra-judicial, and of no authority, even if they were universally admitted to be correct. They declare the Missouri compromise to have been unconstitutional; deny the power of congress over slavery in the territories; concede to slaveholders the right to take their slaves into any territory as any other property. These decisions are controverted by the minority justices, who maintain the old doctrine established by the courts, that "all slavery has its origin in power, and is against right;" that it requires, as essential to its existence, municipal regulations, which the constitution has neither made nor provided for. In eight distinct instances, beginning with the first congress, has congress excluded slavery from the territory of the United States; and in six distinct instances, in which congress organized governments of territories, has slavery been recognized and continued, beginning also with the first congress, and coming down to the year 1822. These acts were severally signed by seven presidents of the United States, beginning with Gen.

Washington, and coming regularly down as far as John Quincy Adams, thus including all who were in public life when the constitution was adopted. If the practical construction of the constitution by men intimately acquainted with its history from their personal participation in framing and adopting it, and continued by them through a long series of acts of the gravest importance, be entitled to any weight in the judicial mind on a question of construction, it would seem to be difficult to resist the force of the acts referred to. Hence it is inferred, that by taking the plaintiff into the state of Illinois where slavery is prohibited by a constitutional law of the state, he became free ; and if he became free in the state, he continued free in the territory, since no law in force there operated to remand him to his original condition.

But it is held by the majority, however, that Scott lost whatever claim he might have had to freedom, by his return to Missouri.

Mr. Buchanan appointed as his cabinet officers, Lewis Cass, of Michigan, secretary of state ; Howell Cobb, of Georgia, secretary of the treasury ; Jacob Thompson, of Mississippi, secretary of the interior ; Isaac Toucey, of Connecticut, secretary of the navy ; John B. Floyd, of Virginia, secretary of war ; Jeremiah S. Black, of Pennsylvania, attorney-general ; and Aaron V. Brown, of Tennessee, postmaster-general. Mr. Brown died March 8, 1859 ; and Joseph Holt, of Kentucky, was appointed as his successor.

Robert J. Walker, of Mississippi, was appointed to succeed J. W. Geary as governor of Kansas, and Frederick P. Stanton, of Tennessee, was appointed secretary. Gov. Walker being from a slave state, and himself a slaveholder, the appointment was distasteful to the free-state men, as was also the appointment of most of the principal officers in the territory, who had either been accessory to, or had themselves committed acts of violence during the civil war in the territory.

On the 11th of May, a *nolle prosequi* was entered on the indictments for treason against Governor Robinson and other members of the Topeka legislature. Robinson was afterward tried before Judge Cato on another indictment for usurping the office of governor, and acquitted.

The act providing for the constitutional convention, required a census of legal voters and inhabitants to be taken on the first of April. In a considerable portion of the territory, including several counties mostly inhabited by free-state men, no census was taken. In apportioning the delegates, Acting-Governor Stanton, (Governor Walker not having yet arrived,) classed several of these counties from which there were no returns, with other counties ; but many counties were left out entirely.

In the latter part of May, Governor Walker arrived in the territory. He endeavored, as, before his arrival, Stanton had done, to persuade the free-state men to take a part in the election of delegates to the constitutional convention; assuring them that the people of Kansas should have a fair expression of their will upon the constitution to be framed. But the free-state men adhered to their resolution. Only about two thousand votes were cast at the election, which took place on the 15th of June.

The Topeka legislature again assembled on the 9th of June, and held a brief session undisturbed; passed an act for an election in August to choose new state officers; and provided for taking a state census. On the 15th of July a state convention met at Topeka, and made nominations for the election.

By the persevering efforts of Governor Walker, and the favor shown to the proposition by many of their friends out of the territory, a large portion of the free-state men determined to vote at the October territorial election. Governor Walker admitted the unfairness of the apportionment, by which a large number of free-state counties were not allowed a representative in either branch of the legislature; but he promised his endeavors to protect the polls against illegal voters. M. J. Parrott, the free-state candidate for congress, nine of the thirteen councilmen, and twenty-seven of the thirty-nine representatives, were elected by the free-state party. A fraudulent return was made from one precinct, giving the names of 1624 persons as having voted in the same, which, as was said, contained but eleven houses. Had these votes been counted, the political character of the legislature would have been changed, although the free-state men would still have had a considerable majority of the popular vote, and retained their delegate to congress. This list was so palpably fraudulent, besides being defective in form, that the return was rejected by the governor. About 11,000 votes were polled, of which the free-state candidates received about two-thirds. Dissatisfied with this act of the governor, the disappointed parties procured from Judge Cato an order, requiring him to show cause why a writ of mandamus should not issue to him to give a certificate of election to the pro-slavery candidates. The governor replied by denying the jurisdiction of the judge.

The constitutional convention, which had met at Lecompton in September, having soon after its organization adjourned over till after the territorial election, now, reassembled to complete its labors. The constitution affirmed the right of slave-owners to hold their slaves in the territory as any other property; and prohibited laws for emancipating slaves without the consent of their owners, or without paying their

owners for them. It also prohibited laws to prevent emigrants to the state from bringing with them their slaves.

The slavery sections were to be submitted separately to the registered electors, on the 21st of December. The ballots were to be indorsed, "Constitution with Slavery," or "Constitution with no Slavery." As this constitution, generally called the "Lecompton Constitution," has been the subject of much remark, and even of a partial disruption of the democratic party, it is deemed proper to notice some of the features most objectionable to the "Anti-Lecompton democrats."

In the first place, it did not provide for being submitted to the people for their approval or rejection. This was a serious objection to many democrats as well as others out of the territory. The provisions respecting slavery made it obnoxious to the free-state electors; because they could not vote against slavery without voting for the constitution; and, if challenged on offering to vote, they must take an oath *to support the constitution if adopted*. It also provided that it was to be in force "after its ratification by the people," even before it could receive the sanction of congress, and required an election at as early a day as possible, (the first Monday in January, 1858,) for choosing a governor, other state officers, members of the legislature, and delegate to congress; the result of which would be, if it were not the direct object, to displace immediately those who had been elected in October. It also placed the repeal of the laws of the old territorial legislature beyond the power of the then existing anti-slavery legislature, by providing, that all laws in force not repugnant to the constitution, should continue until altered or repealed by a legislature elected under the constitution. The first meeting of the legislature was to take place upon the proclamation of the president of the convention, when officially informed of the admission of Kansas into the union. Another provision prohibited any amendment previous to 1864, and then only upon the concurrence of two-thirds of both houses, and a majority of all the citizens of the state; who would, until that time, be precluded from abolishing slavery.

In accordance with the expressed wish and intention of Mr. Buchanan, that the people of Kansas should be allowed to vote upon the adoption of the constitution, the governor had pledged to them his efforts to procure its submission to the popular vote. The failure to effect this produced a great excitement. The free-state party expressed a determination to put their own government into operation at all events; and the peace of the territory was seriously threatened.

Governor Walker was now absent. He had gone to Washington to confer with the president upon the subject; but had found, on his

arrival, that Mr. Buchanan had already given the Lecompton scheme his approval. However, before this fact could be communicated to Kansas, Secretary Stanton, (then acting-governor,) acceding to the known wishes of a large majority of the people, had, (December 3d,) called the new territorial legislature to meet on the 7th, (four weeks in advance of its regular time of meeting,) "to provide, for a direct vote upon the constitution, which was to be partially submitted on the 21st. On receiving intelligence of this act of Mr. Stanton, the president removed him, and appointed J. W. Denver in his stead.

CHAPTER LXXIX.

MEETING OF CONGRESS.—PRESIDENT'S MESSAGE.—GOVERNOR WALKER'S RESIGNATION.—POPULAR VOTES ON THE LECOMPTON CONSTITUTION.—ELECTION OF STATE OFFICERS.

THE 35th congress began its first session December 7, 1857. James L. Orr, of South Carolina, democrat, was elected speaker of the house, over Galusha A. Grow, of Pennsylvania, republican. The democrats in this congress had a majority of about ten in the house, over both republicans and Americans. Upon the slavery question, a majority of the latter from the northern states acted with the republicans, and most of the southern Americans with the democrats.

The president's message was communicated to both houses on the 8th. He notices the pecuniary pressure which had just taken place, and ascribes it solely to our "extravagant and vicious system of paper currency and bank credits, exciting the people to wild speculations and gambling in stocks. The federal government can not do much to provide against a recurrence of existing evils." He believes, "if the states would afford us a real specie basis for our paper circulation, by increasing the denomination of bank notes, first to twenty, and afterward to fifty dollars; if they would require the banks to keep on hand one dollar of specie for every three dollars of their circulation and deposits," and compel them the moment they suspend to "go into liquidation;" and would require them also "to publish a weekly statement of their condition, we should be far secured against future suspensions of specie payments." He recommends a bankrupt law for banking institutions.

He discusses at length the affairs of Kansas. The law providing for

a convention to frame a constitution he considers fair and just. It was to be regretted that all the qualified electors had not registered themselves and voted under its provisions. Whether it was meant by the language of the Kansas act that the convention should have authority finally to decide the question of slavery, or that it should be left to the people to decide it by a direct vote, he had no serious doubt; therefore, in his instructions to Governor Walker, of the 18th of March last, he merely said that when "a constitution shall be submitted to the people of the territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence." He did not intend to interfere with the decision of the people, either for or against slavery. The refusal of a large portion of the citizens to register their names and vote for delegates when an opportunity was fairly afforded, could not affect the legality of the convention. Should the constitution without slavery be adopted, the rights of property in slaves now in the territory are reserved. The highest judicial tribunal had decided that slaves were held in the territory as property under the constitution of the United States; and to have confiscated the property in slaves already in the territory, would have been gross injustice.

Acts of hostility against the United States had been committed in Utah. Governor Young had declared his determination to maintain his power by force. The president, therefore, recommended the raising of four additional regiments, to suppress the insurrection, and to maintain the sovereignty of the constitution and laws over the territory.

He recommended the establishment of a territorial government over Arizona, incorporating it with such portions of New Mexico as might be deemed expedient.

He also recommended a railroad to the Pacific.

A few days after the removal of Stanton, Governor Walker, still in Washington, in a long letter to the state department, dated December 15, 1857, resigned his office as governor of Kansas. He discussed at length the question of popular sovereignty, which he considers a power that can not be delegated, but rests exclusively with the people. Hence the change from a territorial to a state government can only be made by the power where sovereignty rests with the people. Yet a state government is forced upon them *by* the Lecompton constitution; not *against* it. How can it be known that the people would assent to the constitution unless it be submitted to them? If acquiescence can be presumed in any case, it can not be in the case of Kansas, where so

many delegates violated their pledges to submit the constitution to a vote of the people ; where the delegates who signed it represented scarcely one-tenth of the people, and where nearly one-half of the counties were disfranchised. In nineteen counties out of thirty-four no census had been taken, and, therefore, no delegates could be apportioned to them ; and in fifteen out of the thirty-four there was no registry of voters. Not a solitary vote was given, or could be given, for delegates in any one of these counties. The fifteen counties in which no registry was taken gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the Lecompton constitution in November last. The omission of the census and registry was the fault of the officers whose duty it was to make them, and who, he said, "were political partisans, dissenting from the views of the people of these counties, as was proved by the election in October last."

The president, through the secretary of state, having, in his instructions to Governor Walker, declared it to be his "clear conviction, that, unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be rejected by congress ;" and Governor Walker having, under this assurance, given the people this expectation, but finding himself not sustained by the president, he resigned the office, rather than go to Kansas and force the president to remove him for disobedience to his instructions.

The election for voting upon the slavery clauses of the Lecompton constitution, was held on the 21st of December, 1857. The free-state men having adhered to their determination not to vote, the result was, "for the Lecompton constitution *with* slavery," 6,143 ; "for the Lecompton constitution *without* slavery," 569. A large proportion of the votes cast were alleged to have been illegal.

The territorial legislature, convened by Governor Stanton, ordered an election to be held on the 4th of January, 1858. The result of which, as certified by Governor Denver, was, "*for* the constitution *with* slavery," 138 ; *for* the constitution *without* slavery, 24 ; *against* the constitution, 10,226.

An election was held also on the 4th of January, under the Lecompton constitution, to choose state officers, a representative to congress, and a legislature. Although the regular organization of the free-state party refused to recognize or vote at this election, a portion of the party did vote. Returns were made to Calhoun, president of the constitutional convention, at whose request the presiding officers of the territorial legislature met with him to canvass the votes. The presid-

ing officers reported the election of the entire state ticket by an average majority of about 500, and two-thirds of the legislature. Calhoun, however, did not concur in the report. A person was subsequently dispatched to Delaware crossing, a pro-slavery settlement, to get up, as was alleged, a fraudulent return. On his way back he was arrested, under the new law against election frauds ; and he concluded not to present them. Calhoun was subpoenaed as a witness against him, but he refused to obey. He was arrested on a writ of attachment, and subsequently escaped from the territory, and proceeded to Washington. The returns, if allowed, were sufficient to elect the pro-slavery state officers, and a sufficient number of senators and representatives to change the political character of the legislature.

Charges of gross fraud, both in voting and in the returns, were alleged against the pro-slavery party, at both the constitutional election, December 21st, and the election for state officers and representative in congress. The number of votes returned was judged to be in some precincts at least double the number of the legal voters residing in them. This charge of fraud was confirmed by Ex-Governor Stanton, in an address "to the people of the United States," published after his return from the territory, under date of January 29, 1858. He adverts to specific cases of fraudulent voting and unjust apportionments. "The populous county of Douglas had been attached to the border county of Johnson, with a large and controlling representation in the legislature. The celebrated Oxford fraud was perpetrated with a view to obtain majorities in both houses of assembly." And he says that he and Governor Walker "found the papers so imperfect as to make it their duty to reject them. The minority, thus righteously defeated in the effort to prolong their power, became fierce in opposition, and resorted to every means of intimidation. But I am led to believe that they found their most effectual means of operation by undermining us with the administration at Washington."

Of the constitutional convention he says: "Many of the members of that body were bitterly hostile to the governor and secretary, on account of their rejection of the Oxford and McGee frauds, in which some of the members and officers of the convention had a direct participation. They had given a preponderance of representation to the counties on the Missouri border, and afforded every possible facility for the introduction of spurious votes. The president of the convention was clothed with unlimited power in conducting the elections, and receiving the returns, while the officers are not required to take the usual oath to secure fair and honest dealing."

With respect to submitting the constitution to the people, he says:

"The measure for which I have been unjustly condemned, has enabled the people of Kansas to make known their real will in regard to the Lecompton constitution. If congress will heed the voice of the people, and not force upon them a government which they have rejected by a vote of four to one, the whole country will be satisfied, and Kansas will quietly settle her own affairs without difficulty, and without any danger to the confederacy."

As the issuing of certificates of election had been devolved upon Calhoun, president of the convention, it was supposed that, while at Washington, he would issue them to the pro-slavery candidates. After he had been there a month or longer, apparently in a state of indecision as to his course, the secretary of the interior (February 8), received from Gov. Denver a letter with affidavits of the judges of election at Delaware Crossing, certifying that only 43 votes had been cast at that precinct. As this fact could not be resisted, he could no longer refuse to grant certificates to the free-state candidates.

An investigation made by a committee appointed by the Kansas legislature, disclosed other palpable frauds. It was alleged that after about 140 persons had voted, the poll-books were taken to a place in Missouri, where the clerk added between 700 and 800 names, read off to him by a man who had been a member of the Lecompton constitutional convention.

On the 2d of February, 1858, President Buchanan, having received from J. Calhoun, president of the Kansas constitutional convention, a copy of the constitution certified by himself, submitted the same to congress.

In his accompanying message, he alludes to a part of the people of Kansas as "in a state of rebellion against the government under which they live," and says they "have done all in their power to overthrow the territorial government established by congress." He says the election of the 21st of December "afforded them opportunities, if in the majority, of making Kansas a free state according to their own professed desire." He regards the Topeka government as treasonable; a "usurpation of the same character as it would be for a portion of the people of any state to undertake to establish a separate government within its limits for the purpose of redressing any grievance." The adherents of the Topeka organization "would doubtless have voted against the Lecompton constitution, had the whole been submitted to the people." They would have done this, "not upon consideration of the merits of the whole or a part, but simply because they have ever resisted the authority of the government authorized by congress."

The president recognizes the right of the people of Kansas, without

an enabling act of congress, to form a state constitution ; and he pronounces the whole movement legal and fair. But " the enemies of the existing government refused to vote for delegates, not because there was an omission to register the comparatively few voters of certain counties in the early spring of 1857, but because they had determined to defeat the establishment of any other constitution than that formed at Topeka." They suffered the election to pass by default ; but of this they can never justly complain. The convention " did not think proper to submit the whole constitution to a popular vote ; but they did submit the question whether Kansas should be a free or a slave state."

The provision that the constitution might not be altered until 1864, did not, in his opinion, prevent an earlier change. The legislature already elected might immediately submit to the people the question of calling a convention to amend it. It had been adjudged by our highest judicial tribunal, that slavery exists in Kansas by virtue of the constitution of the United States. He says: " Kansas is therefore, at this moment, as much a slave state as Georgia or South Carolina." And slavery can not be prohibited in Kansas, but by a constitutional provision ; and this can be done most " promptly by admitting her into the union." To reject the state because slavery remains in the constitution, will renew the agitation in a more alarming form ; whereas, her speedy admission will restore peace and quiet to the whole country."

In the senate, the message was referred to the committee on territories. In the house, Mr. Stephens, of Georgia, moved a reference to the territorial committee. Mr. Harris, of Illinois, proposed to refer the message and constitution to a select committee of fifteen, to inquire into the facts connected with the formation of the constitution, and whether it was satisfactory to the legal voters of the territory. On the 8th of February, after an animated debate, Stephens' motion was negatived : yeas, 113 ; nays, 114 ; and Harris' resolution was adopted, 114 to 111.

This vote inspired the opponents of the Lecompton constitution with strong hopes of ultimate success. But Speaker Orr, contrary to parliamentary usage, as the opposition claimed, placed on the committee a majority of members in favor of immediate admission under that constitution, who determined to pass over the alleged irregularities and frauds in the elections, and to confine their investigation to the proceedings of the Lecompton convention, and report speedily.

In the senate, February 18, Mr. Green, of Missouri, from the committee on territories, made a report. He declared the Lecompton convention to have been " legally called and legally elected, and clothed with authority to make a constitution," which was as binding as if the

people "had assembled *en masse* instead of by their representatives." The report was accompanied by a bill for the admission of Kansas.

Mr. Douglas dissented from the views of the majority, and made a separate report. He said there was no satisfactory evidence that the constitution was the act and deed of the people of Kansas. The convention had not power to establish the constitution without the assent of congress, which had been expressly withheld; hence the convention had only such power as the territorial legislature could confer, which was to form a constitution, and send it to congress as a memorial for admission, which could be approved or rejected according as it embodied the popular will. The proceedings of the convention should have been held in strict obedience to the authority of the territorial government; but it was declared to be in force in defiance of the territorial government, as well as without the consent of congress. The only lawful election held on the adoption of the constitution was that on the 4th of January last, which was in obedience to the law of the legislature established by congress, with full legislative power on all rightful subjects within the territory.

Mr. Collamer, from the same committee, in behalf of himself and Mr. Wade, also made a report; in which he cites the numerous acts of congress relating to slavery in the territories, and reviews the history of the affairs of Kansas down to the rejection of the Lecompton constitution. The report adds: "The territorial government of Kansas was never organized as provided in its organic act—that is, by its own people—but was usurped by a foreign force, conquered, subdued by arms, and a minority installed in power, which has ever since been sustained by the general government, instead of being examined into and corrected. This has been done and sustained to establish and perpetuate slavery.

"The Lecompton constitution is the result of this proceeding, and is contrary to the will of a great majority of that people, legally expressed.

. . . . The people of that territory, in the late territorial election, have reclaimed their rights; and that territorial government is for the first time now moving peaceably on in its legitimate sphere of promised freedom."

The course of the president upon the Kansas question, and especially in regard to the Lecompton constitution, gave great dissatisfaction to a large portion of the democratic party, as well as to the republicans. Democratic mass conventions were held in several states, and resolutions adopted strongly disapproving the attempt to force upon the people of Kansas a constitution against their will. At some of these meetings were read letters from distinguished democrats, among whom

were Gov. Wise, of Virginia, and Robert J. Walker, ex-governor of Kansas, expressing their sympathy with the object of the movement. The letter of the latter gentleman was very severe. "Is the president the master or the servant of the people; that he should thus dictate to them or their representatives, under threats of exclusion from the party of their choice? Is democracy a name and a shadow, or a substance? It means the *power of the people*. Or has it lost its true signification? or are we moving from it with viewless but rapid strides toward despotic power, to make and unmake the rules of political faith under pains and penalties abhorrent to the souls of freemen? Is this the eighty-second year of our independence? or is it the first year of American monarchy, that is now dawning upon us?"

It may be proper to state, that the administration was not denounced by those democrats because its policy would establish or continue slavery in Kansas; but because it was opposed to the doctrine of popular sovereignty, upon which the administration had come into power.

While the bill for the admission of Kansas was before the senate, Mr. Crittenden proposed an amendment, requiring, as a condition of admission, that the entire constitution should be first submitted to a vote of the people, and receive the assent of a majority of the legal voters; and if the constitution should be rejected, the people were authorized to elect delegates to a convention to frame another constitution. This amendment was rejected; and the bill of the committee was passed, and sent to the house.

In the house, Mr. Montgomery, of Pennsylvania, a democrat, offered, as an amendment, to substitute the rejected bill of Mr. Crittenden in the senate, which was adopted: yeas, 120; nays, 112. The senate, not concurring in the amendment of the house, requested a committee of conference, which was granted by the casting vote of the speaker; four of the anti-Lecompton, or Douglas democrats, having voted for the conference. Mr. English, of Indiana, proposed, in committee, a compromise between the two houses, which was agreed to by a majority of the committee. It proposed to grant to the state of Kansas lots number sixteen and thirty-six of every township, for the support of schools; and seventy-two sections of land for the support of a university; ten sections, for completing the public buildings or erecting new ones; all the salt springs, not exceeding twelve, with six sections of land to each; and five per cent. of the proceeds of the sales of the public lands within the state which should be sold after its admission into the union, for the purpose of making roads and internal improvements. These propositions were to be voted on at an election; each ballot to be indorsed, "For proposition of congress and admission," or, "Against

proposition of congress and admission." If the proposition should be accepted, the admission was to be immediately proclaimed by the president ; but if rejected, the people could not form a state government and be admitted, until it should be ascertained by a census that the population was equal to the ratio of representation required for a representative.

This proposition was deemed by the friends of "free Kansas" as obnoxious as it was singular ; and was denounced as unjust to the people of Kansas, and as a bribe for the benefit of slavery. It conceded the population of the territory to be sufficient for a slave state, but not for a free state. It made extraordinary offers of the public lands for coming into the union with slavery, to which the people would not be entitled if they preferred admission without slavery. The proposition was agreed upon in the conference on the 20th of April, and passed both houses on the 30th : the senate by a vote of 30 to 22 ; the house, 112 to 103. It ought to be here stated, that the proposed land grants were also in the senate bill of Crittenden. The objection was not to the grants as such ; but to their being offered in the "English bill," only in case of the adoption of the Lecompton constitution.

The territorial legislature of Kansas, at a session which expired the 12th of February, 1858, passed a bill, calling a convention to frame a constitution. Governor Denver did not sign the bill ; but not having returned it within what the legislature considered a reasonable or proper time, they pronounced it a law. The election for choosing delegates was held on the 9th of March. The convention met at Minneola, and adjourned to Leavenworth, where they met on the 25th, and closed their labors the 2d of April. Governor Denver did not recognize the convention. The constitution provided for submitting it to the vote of the people on the third Tuesday in May, and for the election of state officers at the same time. It also provided that, if Kansas should be admitted under the Lecompton constitution, this constitution should go into force immediately after its ratification by the people.

A convention was held at Topeka on the 30th of April, to nominate state officers. The subject had been considered of organizing under the Lecompton constitution (in case of its acceptance by congress,) in order to change it ; and a circular letter had been addressed to several prominent men, containing certain questions, one of which was, whether, if it should pass congress, as it had already passed the senate, they were in favor of putting the government under the Leavenworth constitution into immediate operation, if the constitution should be

ratified by the people. Answers in the affirmative from men who were subsequently nominated for office, were read in the convention.

Few acts of great importance were passed at this session of congress; the Kansas question having engrossed a large share of the time.

Minnesota was admitted as a state into the union, in pursuance of an act passed by the former congress, authorizing the people of the territory to form a constitution and state government preparatory to admission.

A bill to increase the army by the number of about 2,500 men, was introduced in the senate, but did not pass that body.

A bill for securing to actual settlers, as a homestead, a quarter section of the public lands, subject to private entry at \$1 25 per acre, or a quantity equal thereto, was passed by the house, but was lost in the senate.

At the election in Kansas, on the 2d of August, 1858, the Leecompton constitution was rejected by a very large majority. The aggregate vote, after rejecting the returns from a few precincts, on account of informalities, was 13,088; which is considerably less than it would have been, but for excessive rains, which had rendered streams impassable. To accept the proposition, 1,788; to reject the proposition, 11,088. Whether the vote of the minority shows the proportionate strength of the pro-slavery party or not, we are not informed. The small number of votes for the proposition has been ascribed in part to the fact, that the election was held on the same day of the state election in Missouri. The selection of that day was said to have been made by design. The persons appointed by the act to carry its provisions into effect, and insure a fair and free election, were the governor, the secretary, and the United States district-attorney of the territory, and the presiding officers of the two houses of the legislature. The 2d of August was said to have been proposed by the president of the council, because on that day the voters of Missouri would attend the election in their own state. That this was the motive is probable, from the election's having been appointed at so late a day.

The result of the fall elections in the states was awaited with great anxiety, as it would be regarded as indicating the popular sentiment respecting the course of the administration on the Kansas question. The number of opposition members of congress elected was largely increased; and a majority of the popular vote for representatives to congress was against the administration in nearly all the free states. Especial interest was taken in the election in Illinois, as the return of Mr. Douglas to the senate of the United States depended upon the legislature then to be chosen. The republican state ticket was elected

by a majority of about 5,000. There was about the same majority of the popular vote on the republican members of the legislature ; but it was charged that owing to the inequality of the apportionment, forty democratic representatives were elected by a smaller number of votes than were cast for thirty-five republicans. Mr. Douglas was reelected to the senate.

CHAPTER LXXX.

MEETING OF CONGRESS.—PRESIDENT'S MESSAGE.—CUBA, OREGON, HOME-STEAD, AND OTHER BILLS.—KANSAS AFFAIRS.

THE first session of the 36th congress commenced on the 6th of December, 1858. The message of the president was received the same day.

The first topic of the message, and that which is most largely discussed, is the "unhappy agitation" of slavery in Kansas. Much, the president said, had been done by the last congress to remove the excitement from the states, and to confine it to the territory. The supreme court had decided that American citizens have a right to take their slave property into the territories ; and the action of congress had given it practical effect. Left to control its own affairs in its own way, Kansas had become tranquil and prosperous. The Lecompton constitution, he said, was unexceptionable in its general features, and provided for submitting the slavery question to the people. By refusing to vote, the opponents of the lawful government preferred that slavery should continue rather than surrender their revolutionary Topeka organization. A better spirit had since prevailed. He admitted that he had, as an individual, expressed an opinion both before and during the session of the convention, in favor of submitting the whole constitution to the people ; but in his official character he had not the power to rejudge the proceedings of the convention. Having rejected the proposition submitted to them, the people of Kansas have no authority to form another constitution until they have a population equal to the ratio required for a representative. They should be required to wait until then before making a third attempt. This excellent provision, he said, should be made to apply hereafter to all territories.

Congress is informed that the long-pending controversy between the United States and Great Britain, relating to the right of search, had

been amicably adjusted. Great Britain had abandoned the claim, but had proposed that some mode should be adopted by mutual arrangement, for verifying the nationality of vessels suspected of carrying false colors. The British government had been informed that we were ready to receive proposals.

The Central American question had not yet been adjusted.

Our relations with Spain were unsatisfactory. Our "Cuban claims" were yet unpaid. These claims were for the refunding of duties unjustly exacted from American vessels at different custom-houses in Cuba. "The truth is, that Cuba, in its present colonial condition, is a constant source of injury and annoyance to the American people. It is the only spot in the civilized world where the African slave trade is tolerated; and we are bound by treaty with Great Britain to maintain a naval force on the coast of Africa, at much expense of life and treasure, solely for the purpose of arresting slavers bound to that island. As long as this market shall remain open, there can be no hope for the civilization of benighted Africa."

If Cuba could be acquired, the slave trade would instantly disappear. We would not, if we could, acquire it but by fair purchase, unless compelled by the overruling law of self-preservation. And, before renewing negotiations with Spain, he wished to be intrusted with the means of making an advance to the Spanish government.

The president repeats the recommendation made in his former message, for an appropriation to be paid to the Spanish government, for distribution among the claimants in the *Amistad* case.

The expenditures of the government exceeded its revenues; and the consequent increase of the public debt, demanded an increase of duties, as it would be ruinous to continue to borrow. It was also demanded by our manufacturing interest, and would give a fresh impulse to our reviving business. He recommended specific duties instead of *ad valorem*, as the best means of securing the revenue against false and fraudulent invoices.

The democratic party had long been committed, not only to low, but to *ad valorem* duties. Therefore, the passage of an act like that recommended by the president, was as improbable as the recommendation was unexpected. All attempts to effect a modification of the tariff were unsuccessful. A few days before the close of the session, a motion was made to suspend the rules, to allow the introduction of a bill to revise and increase the tariff. Two-thirds being required, leave was not granted. The principal opposition, as might have been expected, was from the south. The vote stood: free states, yeas 111, nays 22; slave states, yeas 17, nays 66. Of the 123 who supported

the motion, only 31 were professed friends of the administration. It was proposed by the friends of the president to supply the treasury by additional loans ; the republicans, and tariff democrats and Americans, were opposed to an increase of the public debt.

Oregon presented to congress a constitution and a memorial for admission as a state into the union. The bill was opposed in the house by republicans, because, 1. The constitution forbids the immigration of free negroes and mulattoes, or excludes them from the state, in violation of Art. 4, sec. 2, of the constitution of the United States, which guaranties to "the citizens of each state the privileges and immunities of citizens in all the states." 2. It prohibits them from holding real estate, making contracts, or maintaining suits at law. 3. The distinction which is made between Oregon and Kansas. The question of allowing slavery had been submitted to the people and decided against; but the provision excluding free blacks had been adopted. The vote in the house on the question of admission was, yeas, 114 ; nays, 103.

A bill was introduced in the senate, proposing to put into the hands of the president \$30,000,000, to be used by him in negotiation with Spain with reference to Cuba. The bill was ably discussed ; but a few days before the close of the session, there being no hope of its passage, it was withdrawn. The president's message, or rather the proposition in regard to Cuba, was indignantly noticed in the Spanish Cortes. The pressing of this question after repeated refusals to former purchasers, they pronounced "an offense to Spanish honor and dignity."

An effort was made in the senate to increase the rates of postage. A provision to that effect was attached to the Post Office appropriation bill, which passed that body. But in the house it was objected to on the ground that, by the constitution, the house only has power to originate bills for raising revenue ; and, by a vote of 117 to 76 it was returned to the senate unacted on. The senate struck out this provision ; but the second reading of the bill in this shape being objected to, it was lost ; and no appropriation for the postoffice was made at this session.

The president vetoed a bill granting public lands to all the states in aid of seminaries for instruction in agriculture, mechanics, and the useful arts. This bill was opposed chiefly by southern members, as appears from the final vote in the house : Yeas, free states, 91 ; slave states, 13. Nays, free states, 37 ; slave states, 63.

The president, on the 18th of February, 1859, sent a special message to congress, representing the "great urgency and importance of immediate legislative action, for the protection of American citizens and their property while in transit across the isthmus between the

Atlantic and Pacific possessions," and asking for "authority to employ the land and naval forces in preventing the transit from being obstructed or closed by lawless violence." Force might also become necessary to obtain redress from the republics south of the United States, which had seized and confiscated American vessels and their cargoes. Congress, however, did not see fit to respond favorably to this request.

Two propositions relating to the public lands were acted on at this session, which, though unsuccessful, are deemed worthy of notice. A bill in relation to preëmptions was pending in the house. Mr. Grow, of Pennsylvania, moved an amendment, to the effect that no public land should thereafter be exposed to sale by proclamation of the president, until the return of the survey should have been filed in the land office for ten years or more. The object of the amendment was to give to preëmptors an advantage over speculators and monopolists, by allowing actual settlers to obtain lands at the minimum price, and to have time to pay for their farms from the proceeds of the soil. Although the amendment was adopted, 98 to 81, the bill was defeated, by 91 yeas to 95 nays. The sectional and party character of the vote appears from the record :

YEAS : Maine, 4 ; New Hampshire, 3 ; Vermont, 3 ; Massachusetts, 10 ; Rhode Island, 2 ; Connecticut, 2 ; New York, 21 ; New Jersey, 2 ; Pennsylvania, 9 ; Maryland, 1 ; Ohio, 14 ; Michigan, 4 ; Indiana, 4 ; Illinois 5 ; Wisconsin, 2 ; Iowa, 2 ; Minnesota, 2 ; Missouri, 1. Total, 91. All were republicans, except 3 democrats from New York, 3 from Ohio, 1 from Illinois, and 2 from Minnesota ; 1 American, from Maryland ; in all, 14.

NAYS : Connecticut, 1 ; New York, 4 ; New Jersey, 1 ; Pennsylvania, 9 ; Delaware, 1 ; Maryland, 3 ; Virginia, 8 ; North Carolina, 7 ; South Carolina, 3 ; Georgia, 6 ; Florida, 1 ; Alabama, 6 ; Mississippi, 4 ; Louisiana, 2 ; Texas, 2 ; Arkansas, 1 ; Tennessee, 9 ; Kentucky, 10 ; Ohio, 5 ; Indiana, 4 ; Illinois, 2 ; Missouri, 6. Total, 95. All democrats, except 1 American from Maryland, 2 from North Carolina, 1 from Georgia, 3 from Tennessee, 1 from Kentucky, and 1 from Missouri—9.

The other proposition alluded to was, A bill to secure Homesteads to actual settlers on the public domain. This was substantially the "Homestead bill" of the previous session. The bill proposed to give to any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his intention to become such, one quarter section of land, subject to private entry at \$1,25 per acre, or a quantity equal thereto, to be located in a body. This bill passed the house : yeas,

120 ; nays, 76. Of the *yeas*, 83 were republicans, and 37 democrats—all from free states, except 1 democrat from each of the states of Tennessee, Kentucky and Missouri. All the *nays* were from the slave states, except 1 each from Ohio, Illinois, and Indiana. All were democrats and Americans, except the one from Ohio, who was a republican.

In the senate, no vote was taken on its passage ; but not less than six votes were taken on motions to postpone and to take it up, some of which were carried in favor of the bill. The last vote taken was upon a motion to set aside the Cuba bill to take up the Homestead bill. Yeas, 19, all republicans ; nays, 29, all democrats. It appears to have been the object of the opponents of the bill to avoid a direct vote upon it. A similar bill had at one or two previous sessions been passed by the house, but defeated in the senate.

Samuel Medary, of Ohio, was appointed governor of Kansas, to succeed Governor Denver, resigned, and assumed the duties of his office early in December, 1858. He had not been long in Kansas, before he called upon the president for military aid in suppressing disturbances at and about Fort Scott, in the southeastern borders of the territory. This object was more effectually accomplished at the next session of the legislature, which met in January, 1859, by an act of amnesty stopping the various prosecutions for political offenses which had been commenced in the southeastern counties.

At this session of the Kansas legislature, an act was passed repealing the obnoxious laws of the first territorial legislature, opprobriously called the "bogus laws." There were passed also an act making a new apportionment ; an act for submitting to the people the question of a new constitutional convention at an election to be held the third Monday in March ; and a bill to abolish and prohibit slavery, which, however, failed, having been passed at so late a day of the session, as to enable the governor to defeat it by refusing to sign and return it.

At the election in March there was a majority of nearly 4,000 votes in favor of the proposed constitutional convention. The election for delegates was held in June, and the convention was to meet the 5th of July.

On the 18th of May, a republican convention was held at Osawatomie, for organizing a republican party. Since that time the same political distinctions have existed in the territory as in the states. Of the fifty-two delegates elected, thirty-five were republicans. The convention met on the 5th of July, and adjourned on the 27th, after adopting a constitution by a vote of 34 to 13. All the democrats present voted against it, and refused to sign it. They objected to its boundaries, desiring the annexation of a part of Nebraska, and the

retaining of the western gold region. They desired also the exclusion of free negroes, and the prohibition of bank issues ; but in these, too, they were disappointed. The bill of rights prohibits slavery.

The constitution provided for its being submitted to a vote of the people on the first Tuesday in October. It was ratified by a majority of about 4,000. In November the territorial election was held for the election of members of the legislature, and a delegate to congress. The delegate and a majority of the legislature elected were republicans.

On the 6th of December, an election was held under the new constitution for choosing state officers and a delegate to congress. The majority for the republican candidates was about 3,000.

During the year 1859, the doctrine of popular sovereignty was a subject of much controversy between the leading men of the two divisions of the democratic party. It is evident that when this doctrine was first asserted by Gen. Cass in 1848, in his Nicholson letter, it meant, that congress had no right to legislate either for or against slavery in the territories ; but that the right belonged to the people of the territories to regulate it for themselves. And this was generally believed to be the doctrine of the Kansas-Nebraska act. Since the Dred Scott decision, a difference of opinion has become manifest. Mr. Douglas and his friends deny to congress, and claim for the territorial legislatures, power to legislate on the subject. They admit that slaveholders have a right, under the constitution, to take their slaves as other property into the territories ; but they hold that the owners must be protected, if at all, by the territorial legislatures, which may, either by not acting upon the subject, or by unfriendly action, *practically* prohibit slavery. This may be done by refusing remedies to the slaveholder, or by imposing heavy taxes upon his chattels. But an appeal may be made to the supreme court, which may declare these laws unconstitutional.

Southern statesmen contend, that neither congress nor the territorial legislatures have the right to legislate against slavery in the territories, but that it is the right and the duty of congress to intervene for its protection.

Such also, substantially, appears to be the doctrine of the administration, as enunciated by Mr. Buchanan and those who claim to be the exponents of his principles. They repudiate "squatter sovereignty," (as they call it,) which "recognizes the right of those men, (whatever their number,) who may have squatted on the public domain in advance of the public surveys, and without the ownership of an acre of land, to elect a legislature which shall undertake to prohibit slavery in a territory." But "popular sovereignty," which they advocate, means,

that the people, while in a territorial condition, can not exclude or prohibit slavery, but only when they come to form a state constitution. Congress, they say, has not the power, and should not attempt, to establish or prohibit slavery in any territory ; and the territorial legislature, deriving all its powers of legislation from congress, has not the power and should not attempt to establish or prohibit slavery ; but protection is the duty of those invested with the power of local legislation ; and it is the duty of the judiciary to set aside any " unfriendly legislation " which is calculated to destroy or impair any right of property. Whatever rights individuals have in the territory, may demand, and when demanded, must have protection ; and if the right of slavery to exist in the territory has been confirmed by the supreme court, and the territorial legislature fails to protect it, congress may do so without violating the doctrine of congressional non-intervention.

A P P E N D I X.

DECLARATION OF INDEPENDENCE.

JULY 4th, 1776.

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN [*general*] CONGRESS ASSEMBLED.*

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind, requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with [*inherent and*] unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer while evils are sufferable, than to right themselves, by abolishing the forms to which they are accus-

certain

* This is a copy of the original draft of Jefferson, as reported to congress. The parts struck out by congress are printed in italics, and enclosed in brackets; and the parts added are placed in the margin, or in a concurrent column.

alter
repeated
all having

tomed. But when a long train of abuses and usurpations [*begun at a distinguished period and*] pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to [*expunge*] their former systems of government. The history of the present king of Great Britain, is a history of [*unremitting*] injuries and usurpations, [*among which appears no solitary fact to contradict the uniform tenor of the rest, but all have*] in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world, [*for the truth of which we pledge a faith yet unsullied by falsehood.*]

He has refused his assent to laws the most wholesome, and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature: a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly [*and continually*] for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

obstructed
by

He has [*suffered*] the administration of justice, [*totally to cease in some of these states,*] refusing his assent to laws for establishing judiciary powers.

He has made [*our*] judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, [*by a self-assumed power*] and sent hither swarms of new officers, to harass our people, and eat out their substance.

He has kept among us in times of peace, standing armies [*and ships of war*] without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction foreign to our constitutions, and unacknowledged by our laws, giving his assent to their acts of pretended legislation, for quartering large bodies of armed troops among us; for protecting them by a mock trial from punishment for any murders which they should commit on the inhabitants of these states; for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us [] of the benefits of trial by jury; for transporting us beyond seas, to be tried for pretended offenses; for abolishing the free system of English laws, in a neighboring province; establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these [*states* ;] for taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments; for suspending our own legislatures, and declaring themselves invested with power to legislate for us, in all cases whatsoever.

in many cases

colonies

He has abdicated government here, [*withdrawing his governors, and declaring us out of his allegiance and protection.*]

by declaring us out of his protection,

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

and waging war against us

He is at this time transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, [] unworthy the head of a civilized nation.

scarcely paralleled in the most barbarous ages, and totally

He has constrained our fellow-citizens taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

excited domestic insurrections among us, and

He has [] endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes, and conditions [*of existence.*]

has

[*He has incited treasonable insurrections of our fellow-citizens, with the allurements of forfeiture, and confiscation of our property.*]

He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty, in the persons of a distant people, who never offended him, capturing and carrying them into slavery in another hemis-

phere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian king of Great Britain. Determined to keep open a market, where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.]

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injuries.

free

A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a [] people, [who mean to be free. Future ages will scarcely believe, that the hardiness of one man adventured, within the short compass of twelve years only, to lay a foundation so broad and so undisguised for tyranny, over a people fostered and fixed in principles of freedom.]

an unwarrantable

us

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature, to extend [a] jurisdiction over [these our states.] We have reminded them of the circumstances of our emigration and settlement here, [no one of which could warrant so strange a pretension: that these were effected at the expense of our own blood and treasure, unassisted by the wealth or the strength of Great Britain: that in constituting indeed our several forms of government, we had adopted one common king, thereby laying a foundation for perpetual league and amity with them, but that submission to their parliament, was no part of our constitution, nor ever in idea, if history may be credited, and] we [] appealed to their native justice and magnanimity, [as well as to] the ties of our common kindred to disavow these usurpations which [were likely to] interrupt our connection and correspondence. They too have been deaf to the voice of justice and of consanguinity, [and when occasions have been given them, by the regular course of their laws, of removing from their councils the disturbers of our harmony, they have by their free election reëstablished them in power. At this very time, too, they are permitting their chief magistrate to send over not only soldiers of our common blood, but Scotch and foreign mercenaries, to invade and destroy us. These facts have given the last stab to agonizing affection, and manly spirit bids us to renounce forever these unfeeling brethren. We must

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and we have
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tably

endeavor to forget our former love for them, and hold them as we hold the rest of mankind, enemies in war, in peace friends. We might have been a free and a great people together ; but a communication of grandeur and of freedom, it seems, is below their dignity. Be it so, since they will have it. The road to happiness and to glory is open to us too. We will tread it apart from them, and] acquiesce in the necessity which denounces our [eternal] separation [] !

We must therefore

and hold them as we hold the rest of mankind, enemies in war, in peace friends.

We therefore, the representatives of the United States of America, in general congress assembled, do in the name, and by the authority of the good people of these [*states reject and renounce all allegiance and subjection to the kings of Great Britain, and all others, who may hereafter claim by, through, or under them ; we utterly dissolve all political connection which may heretofore have subsisted between us and the people or parliament of Great Britain ; and finally we do assert and declare these colonies to be free and independent states*] and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

We therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do in the name, and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states ; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved ; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things, which independent states may of right do.

And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of congress, engrossed and signed by the following members :

JOHN HANCOCK.

New Hampshire.—Josiah Bartlett, William Whipple, Matthew Thornton.

Massachusetts Bay.—Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.

Rhode Island.—Stephen Hopkins, William Ellery.

Connecticut.—Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.

New York.—William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.

New Jersey.—Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.

Pennsylvania.—Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.

Delaware.—Cæsar Rodney, George Read, Thomas M'Kean.

Maryland.—Samuel Chase, William Paca, Thomas Stone, Charles Carroll, of Carrollton.

Virginia.—George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee, Carter Braxton.

North Carolina.—William Hooper, Joseph Hewes, John Penn.

South Carolina.—Edward Rutledge, Thomas Heyward, Jr., Thomas Lynch, Jr., Arthur Middleton.

Georgia.—Button Gwinnett, Lyman Hall, George Walton.

ARTICLES OF CONFEDERATION.

TO ALL TO WHOM THESE PRESENTS SHALL COME, WE, THE UNDERSIGNED
DELEGATES OF THE STATES AFFIXED TO OUR NAMES, SEND GREETING.

WHEREAS, the delegates of the United States of America in congress assembled did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the independence of America, agree to certain articles of confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz:

Articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE 1. The style of this confederacy shall be, "the United States of America."

ART. 2. Each state retains its sovereignty, freedom and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in congress assembled.

ART. 3. The said states hereby severally enter into a firm league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ART. 4. The better to secure and perpetuate mutual friendship, and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice, excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid by any state on the property of the United States or either of them.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any

of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offense.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

ART. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct to meet in congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No state shall be represented in congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emoluments of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress; and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

ART. 6. No state without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States in congress assembled, specifying accurately the purposes for which the same is to be entered into and how long it shall continue.

No state shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

No vessel-of-war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in congress assembled for the defense of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall

provide and have constantly ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the United States in congress assembled, unless such state be actually invaded by enemies or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels-of-war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates, in which case vessels-of-war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

ART. 7. When land forces are raised by any state for the common defense, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

ART. 8. All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in congress assembled.

ART. 9. The United States in congress assembled shall have the sole and exclusive right and power of determining on peace or war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances; provided, that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures: provided, that no member of congress shall be appointed a judge of any of the said courts.

The United States in congress assembled shall also be the last resort

on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties, by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they can not agree, congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct shall, in the presence of congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend the claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings, being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:" provided also, that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more states, whose jurisdiction as they may respect such lands and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states—

fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated—establishing and regulating postoffices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office—appointing all officers of the land forces in the service of the United States excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in congress assembled shall have authority to appoint a committee to sit in the recess of congress, to be denominated “a committee of the states,” and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years—to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them, in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled: but if the United States in congress assembled, shall, on consideration of circumstances, judge proper that any state should not raise men or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number can not safely be spared out of the same; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled.

The United States in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor

agree upon the number of vessels-of-war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ART. 10. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states, shall from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled is requisite.

ART. 11. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this Union; but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

ART. 12. All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. 13. Every state shall abide by the decision of the United States in congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislature of every state.

And whereas it has pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in congress, to approve of and to authorize us to ratify the said articles of confederation and perpetual union: *know ye*, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide

by the determinations of the United States in congress assembled, on all questions which, by the said confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union be perpetual.

In witness whereof, we have hereunto set our hands, in congress. Done at Philadelphia, in the state of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

New Hampshire.—Josiah Bartlett, John Wentworth, Jr.

Massachusetts Bay.—John Hancock, Samuel Adams, Elbridge Gerry, Francis Dana, James Lovell, Samuel Holten.

Rhode Island.—William Ellery, Henry Marchant, John Collins.

Connecticut.—Roger Sherman, Samuel Huntington, Oliver Wolcott, Titus Hosmer, Andrew Adams.

New York.—James Duane, Francis Lewis, William Duer, Gouverneur Morris.

New Jersey.—John Witherspoon, Nath. Scudder.

Pennsylvania.—Robert Morris, Daniel Roberdeau, Jonathan Bayard Smith, William Clingan, Joseph Reed.

Delaware.—Thomas M'Kean, John Dickinson, Nicholas Van Dyke.

Maryland.—John Hanson, Daniel Carroll.

Virginia.—Richard Henry Lee, John Banister, Thomas Adams, John Harvie, Francis Lightfoot Lee.

North Carolina.—John Penn, Constable Harnett, John Williams.

South Carolina.—Henry Laurens, William Henry Drayton, John Matthews, Richard Hudson, Thomas Heyward, Jr.

Georgia.—John Walton, Edward Telfair, Edward Langworthy.

CONSTITUTION OF THE UNITED STATES.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose *three*; Massachusetts, *eight*; Rhode Island and Providence Plantations, *one*; Connecticut, *five*; New York, *six*; New Jersey, *four*, Pennsylvania, *eight*; Delaware, *one*; Maryland, *six*; Virginia, *ten*, North Carolina, *five*; South Carolina, *five*; and Georgia, *three*.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments; when sitting for that purpose, they shall be on oath of affirmation. When the president of the United States is tried, the chief-justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

SEC. 4. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7 All bills for raising revenue shall originate in the house of representatives; but the senate may propose, or concur with, amendments, as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment,) shall be presented to the president of the United States, and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The congress shall have power :

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States :

To borrow money on the credit of the United States :

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes :

To establish a uniform rate of naturalization, and uniform laws on the subject of bankruptcies throughout the United States :

To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures :

To provide for the punishment of counterfeiting the securities and current coin of the United States :

To establish post offices and post roads :

To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries :

To constitute tribunals inferior to the supreme court :

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations :

To declare war ; grant letters of marque and reprisal ; and make rules concerning captures on land and water :

To raise and support armies ; but no appropriation of money to that use shall be for a longer term than two years :

To provide and maintain a navy :

To make rules for the government and regulation of the land and naval forces :

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions :

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States ; reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress :

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings : And,

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing, shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight ; but a tax or duty may be imposed on such importation, not exceeding ten dollars for such person :

The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state, over those of another ; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of

appropriations made by law ; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States ; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make anything but gold and silver coin a tender in payment of debts ; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts ; or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws : and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States ; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows :

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president ; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote : a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of the states

shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.

[By the 12th article of amendment, the above clause has been repealed.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power by, and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress information of the state of the union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SEC. 4. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party, to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof; and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given, in each state, to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guaranty to every state in this union, a republican form of government; and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and Deputy from Virginia.

New Hampshire.—John Langdon, Nicholas Gilman.

Massachusetts.—Nathaniel Gorham, Rufus King.

Connecticut.—Wm. Samuel Johnson, Roger Sherman.

New York.—Alexander Hamilton.

New Jersey.—William Livingston, David Brearley, William Paterson, Jonathan Dayton.

Pennsylvania.—Benjamin Franklin, Robert Morris, Thomas Fitzsimmons, James Wilson, Thomas Mifflin, George Clymer, Jared Ingersoll, Gouverneur Morris.

Delaware.—George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

Maryland.—James M'Henry, Daniel of St. Thomas Jenifer, Daniel Carroll.

Virginia.—John Blair, James Madison, Jr.

North Carolina.—William Blount, Richard Dobbs Spaight, Hugh Williamson.

South Carolina.—John Rutledge, Charles Pinckney, Pierce Butler, Charles Cotesworth Pinckney.

Georgia.—William Few, Abraham Baldwin.

Attest: WILLIAM JACKSON, *Secretary.*

AMENDMENTS.

ARTICLE I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ART. II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ART. III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in a time of war, but in a manner to be prescribed by law.

ART. IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ART. V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb, nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ART. VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

ART. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. IX. The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ART. X. The powers not delegated to the United States, by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ART. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ART. XII. The electors shall meet in their respective states, and vote

by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate;—the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted;—the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representation shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representatives from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

NOTES.

NOTE A.—Page 92.

The following is a statement of the number and amount of the issues of continental money during the revolutionary war, designating each issue, and its amount, as the same appears in the journals of the continental congress.

WHEN AUTHORIZED.	AMOUNT.	WHEN AUTHORIZED.	AMOUNT.
1775, June 22.....	\$2,000,000	1778, July 30.....	\$5,000,000
July 25.....	1,000,000	Sept. 5.....	5,000,000
Nov. 29.....	3,000,000	26.....	10,000,000
1776, Feb. 27.....	4,000,000	Nov. 4.....	10,000,000
May 9 and 27.....	5,000,000	Dec. 14.....	10,000,000
July 22, and Aug. 13.	5,000,000	1779, Feb. 3.....	5,000,160
Nov. 2, and Dec. 28..	5,000,000	19.....	5,000,160
1777, Feb. 26.....	5,000,000	April 1.....	5,000,160
May 20.....	5,000,000	May 5.....	10,000,000
Aug. 15.....	1,000,000	Jan. 14, and May 7...	50,000,400
Nov. 7.....	1,000,000	June 4.....	10,000,100
Dec. 3.....	1,000,000	July 17.....	5,000,100
1778, Jan. 8.....	1,000,000	do.	10,000,100
Jan. 22.....	2,000,000	Sept. 17.....	5,000,180
Feb. 16.....	2,000,000	do.	10,000,180
March 5.....	2,000,000	Oct. 14.....	5,000,180
April 4.....	1,000,000	Nov. 17.....	5,000,040
11.....	5,000,000	do.	5,050,500
18.....	5,000,000	Nov. 29.....	10,000,140
1778, May 22.....	5,000,000		
June 20.....	5,000,000		\$246,052,400

NOTE B.—Page 146.

To readers unacquainted with the rules of proceeding in legislative assemblies, it may be of service to explain the difference between the forms of deliberation and action in committees of the whole and those observed in the house. While sitting as a committee of the whole, the body is not called the house, or the senate. The members, on motion, resolve themselves, by vote, into a committee of the whole; and the presiding officer calls to the chair another member, who is not addressed as speaker or president, but as *chairman*. Important measures are usually referred to the committee of the whole to be considered and amended before they are disposed of by the house. The one object of instituting such committee is to afford greater freedom of discussion, as members, in committee speak as often as they please, provided they can obtain the floor. When a bill has been duly considered and amended, the speaker resumes the chair, and the chairman of the committee of the whole reports the bill to the house, or to the senate, as the case may be.

NOTE C.—*Page 202.*

"Essex Junto" was the name given to certain ultra federalists, opposed to John Adams, and entertaining, as was alleged, strong partialities for England. Among them were the members of the cabinet who were dissatisfied with his mildness towards France. Some of the leading ones resided in Essex county, Massachusetts: Hence the name.

NOTE D.—*Page 420.*

During the excitement caused by the passage of the tariff act of 1828, which was so vehemently denounced at the south, as both unconstitutional and impolitic, Mr. Madison addressed to Joseph C. Cabell, Esq., in September and October of that year, two letters in vindication of the protective system; one on its constitutionality, and the other on its expediency. Extracts from these letters are here given:

"The constitution vests in congress, expressly, 'the power to lay and collect taxes, duties, imposts, and excises;' and 'the power to regulate trade.'

"That the former power, if not particularly expressed, would have been included in the latter as one of the objects of a general power to regulate trade, is not necessarily impugned by its being so expressed. Examples of this sort can not sometimes be easily avoided, and are to be seen elsewhere in the constitution. Thus the power 'to define and punish offenses against the law of nations,' includes the power, afterwards particularly expressed, 'to make rules concerning captures,' &c., from offending neutrals. So also a power 'to coin money' would doubtless include that of 'regulating its value,' had not the latter power been expressly inserted. The term taxes, if standing alone, would certainly have included duties, imposts and excises. In another clause it is said, 'no tax or duties shall be laid on exports,' &c. Here, the two terms are used as synonymous. And in another clause, where it is said 'no state shall lay any imposts or duties,' &c., the terms imposts and duties are synonymous.

"It is a simple question under the constitution of the United States, whether 'the power to regulate trade with foreign nations' as a distinct and substantive item in the enumerated powers, embraces the object of encouraging by duties, restrictions, and prohibitions, the manufactures and products of the country? And the affirmative must be inferred from the following considerations:

"1. The meaning of the phrase 'to regulate trade,' must be sought in the general use of it; in other words, in the objects to which the power was generally understood to be applicable, when the phrase was inserted in the constitution.

"2. The power has been understood and used by all commercial and manufacturing nations, as embracing the object of encouraging manufactures. It is believed that not a single exception can be named.

"3. This had been particularly the case with Great Britain, whose commercial vocabulary is the parent of ours. A primary object of her commercial regulations is well known to have been the protection and encouragement of her manufactures.

"4. Such was understood to be a proper use of the power by the states

most prepared for manufacturing industry, whilst retaining the power over their foreign trade.

"5. Such a use of the power, by congress, accords with the intention and expectation of the states, in transferring the power over trade from themselves to the government of the United States. This was emphatically the case in the eastern, the more manufacturing members of the confederacy. Hear the language held in the convention of Massachusetts.

"6. If congress have not the power, it is annihilated for the nation a policy without example in any other nation.

"7. If revenue be the sole object of a legitimate impost, and the encouragement of domestic articles be not within the power of regulating trade, it would follow that no monopolizing or unequal regulations of foreign nations could be counteracted; that neither the staple articles of subsistence, nor the essential implements for the public safety, could, under any circumstances, be insured or fostered at home, by regulations of commerce, the usual and most convenient mode of providing for both, and that the American navigation, though the source of naval defense, of a cheapening competition in carrying our valuable and bulky articles to market, and of an independent carriage of them during foreign wars, when a foreign navigation might be withdrawn, must be at once abandoned, or speedily destroyed; it being evident that a tonnage duty in foreign ports against our vessels, and an exemption from such a duty in our ports, in favor of foreign vessels, must have the inevitable effect of banishing ours from the ocean.

"To assume a power to protect our navigation, and the cultivation and fabrication of all articles requisite for the public safety, as incident to the war power, would be a more latitudinarian construction of the text of the constitution, than to consider it as embraced by the specified power to regulate trade; a power which has been exercised by all nations for those purposes, and which effects those purposes with less of interference with the authority and conveniency of the states, than might result from internal and direct modes of encouraging the articles, any of which modes would be authorized, as far as deemed 'necessary and proper,' by considering the power as an incidental power.

"8. That the encouragement of manufactures was an object of the power to regulate trade, as proved by the use made of the power for that object, in the first session of the first congress under the constitution; when among the members present were so many who had been members of the federal convention which framed the constitution, and of the state conventions which ratified it; each of these classes consisting of members who had opposed and who had espoused the constitution in its actual form. It does not appear from the printed proceedings of congress on that occasion, that the power was denied by any of them, and it may be remarked, that members from Virginia, in particular, as well of the anti-federal as the federal party, the names then distinguishing those who had opposed and those who had approved the constitution, did not hesitate to propose duties, and suggest prohibitions in favor of several articles of her production. By one a duty was proposed on mineral coal in favor of Virginia coal-pits; by another, a duty on hemp was proposed, to encourage the growth of that article; and by a third, a prohibition of even foreign beef was suggested, as a measure of sound policy.

"A further evidence in support of the constitutional power to protect and foster manufactures by regulations of trade, an evidence that ought, of itself, to settle the question, is the uniform and practical sanction given to the power, by the general government, for nearly forty years; with a concurrence or acquiescence of every state government, throughout the same period; and, it may be added, through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised, or however respectable and patriotic its patrons, can withstand the weight of such authority, or the unbroken current of so prolonged and universal a practice."

Having thus endeavored to establish the constitutionality of the power of congress to protect and encourage manufactures, he discusses in the second letter, the *expediency* of exercising the power for this purpose. The following are extracts from this letter:

"1. The theory of 'Let us alone' supposes that all nations concur in a perfect freedom of commercial intercourse. Were this the case, they would, in a commercial view, be but one nation, as much as the several districts composing a particular nation; and the theory would be as applicable to the former as to the latter. But this golden age of free trade has not yet arrived: nor is there a single nation that has set the example. No nation can, indeed, safely do so, until a reciprocity, at least, be insured to it. Take, for a proof, the familiar case of the navigation employed in foreign commerce. If a nation, adhering to the rule of never interposing a countervailing protection of its vessels, admits foreign vessels into its ports free of duty, whilst its own vessels are subject to a duty in foreign ports, the ruinous effect is so obvious, that the warmest advocate for the theory in question must shrink from a *universal* application of it.

"A nation leaving its foreign trade, in all cases, to regulate itself, might soon find it regulated, by other nations, into a subserviency to a foreign interest. In the interval between the peace of 1783 and the establishment of the present constitution of the United States, the want of a general authority to regulate trade is known to have had this consequence. * * *

"2. The theory supposes, moreover, a perpetual peace; a supposition, it is to be feared, not less chimerical than a universal freedom of commerce. * * * In order to determine a question of economy, between depending on foreign supplies, and encouraging domestic substitutes, it is necessary to compare the probable periods of war with the probable periods of peace; and the cost of the domestic encouragement in times of peace, with the cost added to foreign articles in times of war. * * * It cannot be said that the manufactories which could not support themselves against foreign competition in periods of peace, would spring up of themselves at the recurrence of war prices. It must be obvious to every one, that, apart from the difficulty of great and sudden changes in employment, no prudent capitalists would engage in expensive establishments of any sort, at the commencement of a war of uncertain duration with a certainty of having them crushed by the return of peace. * * *

"3. It is an opinion in which all must agree, that no nation ought to be unnecessarily dependent on others for the munitions of public defense

or for the materials essential to a naval force, where the nation has a maritime frontier or a foreign commerce to protect. To this class of exceptions to the theory, may be added the instruments of agriculture, and of the mechanic arts which supply the other primary wants of the community. * * *

"4. There are cases where a nation may be so far advanced in the prerequisites for a particular branch of manufactures, that this, if once brought into existence, would support itself; and yet, unless aided in its nascent and infant state, by public encouragement and a confidence in public protection, might remain, if not altogether, for a long time unattempted, or attempted without success. Is not our cotton manufacture a fair example? However favored by an advantageous command of the raw material, and a machinery which dispenses in so extraordinary a proportion with manual labor, it is quite probable, that without the impulse given by a war, cutting off foreign supplies, and the patronage of an early tariff, it might not even yet have established itself; and pretty certain, that it would be far short of the prosperous condition which enables it to face, in foreign markets, the fabrics of a nation that defies all other competitors. The number must be small, that would now pronounce this manufacturing boon not to have been cheaply purchased by the tariff which nursed it into its present maturity.

"5. Should it happen, as has been suspected, to be an object, though not of a foreign government itself, of its great manufacturing capitalists, to strangle in the cradle the infant manufactures of an extensive customer, or an anticipated rival, it would surely, in such a cause, be incumbent on the suffering party, so far to make an exception of the 'Let alone' policy, as to parry the evil by apposite regulations of its foreign commerce."

NOTE E.—Page 493.

The exposition, by Mr. Madison, of his Virginia resolutions, does not authorize the construction given to them by Mr. Hayne and others. And in letters written at the time of, or soon after the debate in which his authority was claimed in support of nullification, he unequivocally disclaimed the doctrine. [See *Niles' Register* of May 30, and Oct. 16, 1830.]

NOTE F.—Page 499.

In the convention of the framers of the constitution, there was much opposition to the change of the government from the confederation of independent and sovereign states, to a national government, or government of the people; and the same opposition was made in some of the state conventions to which it was submitted for adoption. The concurrence of its opponents and advocates in considering it a government of *the people* of the states, and not a mere league or union of states, would seem to afford ample confirmation of the exposition of Mr. Livingston and Mr. Webster. In the convention of Virginia, Patrick Henry, who was opposed to this feature of the constitution, said:

"The members of the federal convention were, I am sure, impressed with the necessity of forming a great consolidated government, instead of a confederation;—that this is a consolidated government is demon-

strably clear; and the danger, to my mind, is very striking. I have the highest veneration for those gentlemen; but, sir, give me leave to demand, what right they had to say, '*we the people?*' My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, who authorized them to speak the language of '*we the people*' instead of '*we the states?*' States are the characteristic and soul of a confederation. If the states be not the agents of this compact, it must be one great consolidated national government of the people of all the states."

To this, it was replied, first by Mr. Edmund Pendleton, the president of the convention, thus:

"But an objection is made to the form: the expression, *we the people*, is thought improper. Permit me to ask the gentleman, who made this objection, who but the people can delegate power? who but the people have a right to form a government? The expression is a common one and a favorite one with me;—the representatives of the people, by their authority, is a mode wholly unessential. If the objection be, that the union ought to be not of the people, but of the state governments, then I think the choice of the former very happy and proper. What have the state governments to do with it? Were they to determine, the people could not, in that case, be the judge upon what terms it was adopted."

On the same head, Mr. Lee, of Westmoreland, thus spoke:

"He (Mr. Henry) had adverted to the state of the government, and asked what authority they had to use the expression, '*we the people*,' and not *we the states?* This expression was introduced into that paper with great propriety; this system is submitted to the people for their consideration, because on them it is to operate, if adopted. It is not binding on the people, until it becomes their act. It is now submitted to the people of Virginia. If we do not adopt it, it will be always null and void as to us. Suppose it was found proper for an adoption, in becoming the government of the people of Virginia, by what style should it be done? Ought we not to make use of the name of the people? No other style would be proper."

Mr. Madison, another member of the convention, who was also one of the delegates that framed the constitution, thus expressed himself, as to the mixed nature of the federal government:

"The principal question is, whether it be a federal or consolidated government. In order to judge properly of the question before us, we must consider it minutely in its principal parts. I conceive myself that it is of a mixed nature—it is in a manner unprecedented; we can not find one express example in the experience of the world; it stands by itself. In some respects it is a government of a federal nature: in others it is of a consolidated nature. Even if we attend to the manner in which the constitution is investigated, ratified, and made the act of the people of America, I can say, notwithstanding what the honorable gentleman has alleged, that this government is not completely consolidated—nor is it entirely federal. Who are parties to it? The people—but not the people as composing thirteen sovereignties; were it, as the gentleman asserts, a consolidated government, the assent of a majority of the people would be sufficient for its establishment; and as

a majority have adopted it already, the remaining states would be bound by the act of the majority, even if they unanimously reprobated it. Was it such a government as is suggested, it would be now binding on the people of this state without their having had the privilege of deliberating on it; but, sir, no state is bound by it, as it is, without its own consent. Should all the states adopt it, it will be then a government established by the thirteen states of America, not through the intervention of the legislatures, but by the people at large. In this particular respect, the distinction between the existing and the proposed government is very material. The existing system has been derived from the dependent derivative authority of the legislature of the states; whereas this is derived from the superior power of the people. If we look at the manner in which alterations are to be made in it, the same idea is in some degree attended to. By the new system, a majority of the states can not introduce amendments; nor are all the states required for that purpose; three-fourths of them must concur in alterations; in this, there is a departure from the federal idea: the members to the national house of representatives are to be chosen by the people at large, in proportion to the numbers in the respective districts. When we come to the senate, its members are elected by the states in their equal and political capacity; but had the government been completely consolidated, the senate would have been chosen by the people in their individual capacity, in the same manner as the members of the other house. Thus it is of a complicated nature, and this complication, I trust, will be found to exclude the evils of absolute consolidation, as well as of a mere confederacy."

Mr. Nicholas, on the same side, remarked:

"In my opinion, the expression 'we the people,' is highly proper—it is submitted to the people, because on them it is to operate. Till adopted, it is a dead letter and not binding upon any one; when adopted it becomes binding upon the people who adopt it. It is proper on another account. We are under great obligations to the federal convention for recurring to the people, the source of all power. The gentleman's argument militates against himself; he says that persons in power never relinquish power willingly. If, then, the state legislatures would not relinquish part of the powers they now possess, to enable a general government to support the union, reference to the people is necessary."

NOTE G.—Page 568.

In regard to the force of judicial decisions in controlling the action of other branches of the government, president Jackson says:

"Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the house of representatives, of the senate, and of the president, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over congress than the opinion of congress has over the judges, and on that point the president is independent of both. The

authority of the supreme court must not, therefore, be permitted to control the congress or the executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve."

The following are the views of Mr Madison, communicated in a letter to Charles J. Ingersoll, June 25, 1831:

"The case in question has its true analogy in the obligation arising from judicial expositions of the law on succeeding judges; the constitution being a law of the legislator, as the law is a rule of decision to the judge.

"And why are judicial precedents, when formed on due discussion and consideration, and deliberately sanctioned by reviews and repetitions, regarded as of *binding influence*, or rather of *authoritative force*, in settling the meaning of a law? It must be answered, 1st, because it is a reasonable and established axiom, that the good of society requires that the rules of conduct of its members should be certain and known, which would not be the case if any judge, disregarding the decisions of his predecessors, should vary the rule of law according to his individual interpretation of it. *Micra est servitus rebi jus est aut vagum aret incognitum.* 2d, because an exposition of the law publicly made and repeatedly confirmed by the constituted authority, carries with it, by fair inference, the sanction of those who, having made the law through the legislative organ, appear under such circumstances, to have determined its meaning through their judiciary organ.

"Can it be of less consequence that the meaning of the constitution should be fixed and known, than that the meaning of a law should be so? Can indeed a law be fixed in its meaning and its operation, unless the constitution be so? On the contrary, if a particular legislature, differing in the construction of the constitution from a series of preceding constructions, proceeding to act on that difference, they not only introduce uncertainty and instability in the constitution, but in the laws themselves; inasmuch as all laws, preceding the new construction, and inconsistent with it, are not annulled for the future, but virtually pronounced nullities from the beginning.

"But it is said that the legislator having sworn to support the constitution, must support it in his own construction of it, however different from that put on it by his predecessors, or whatever be the consequence of the construction. And is not the judge under the same oath to support the law? yet has it ever been supposed that *he* was required, or at liberty to disregard all precedents, however solemnly repeated and regularly observed; and, by giving effect to his own abstract and individual opinions, to disturb the established course of practice in the business of the community? Has the wisest and most conscientious judge ever scrupled to acquiesce in decisions in which he has been overruled by the matured opinions of the majority of his colleagues; and subsequently to conform himself thereto, as to authoritative expositions of the law? And is it not reasonable that the same view of the official oath should be taken by a legislator, acting under the constitution, which is his guide, as is taken by a judge, acting under the law, which is his?

"There is in fact and in common understanding, a necessity of regarding a course of practice, as above characterised, in the light of a legal

rule of interpreting a law; and there is a like necessity of considering it a constitutional rule of interpreting a constitution.

"That there may be extraordinary and peculiar circumstances controlling the rule in both cases, may be admitted; but, with such exceptions, the rule will force itself on the practical judgment of the most ardent theorist. He will find it impossible to adhere to, and act officially upon, his solitary opinions as to the meaning of the law or constitution, in opposition to a construction, reduced to practice, during a reasonable period of time; more especially where no prospect existed of a change of construction by the public as its agents. And if a reasonable period of time, marked with the usual sanctions, would not bar the individual prerogative, there could be no limitation to its exercise, although the danger of error must increase with the increasing oblivion of explanatory circumstances, and with the continual changes in the import of words and phrases.

"Let it then be left to the decision of every intelligent and candid judge, which, on the whole, is most to be relied on for the true and safe construction of a constitution, that which has the uniform sanction of successive legislative bodies through a period of years, and under the varied ascendancy of parties; or that which depends upon the opinions of every new legislature, heated as it may be by the spirit of party, eager in the pursuit of some favorite object, or led astray by the eloquence and address of popular statesmen, themselves, perhaps, under the influence of the same misleading causes.

"It was in conformity with the view here taken on the respect due to deliberate and reiterated precedents, that the bank of the United States, though on the original question held to be unconstitutional, received the executive signature in the year 1817. The act of originally establishing a bank, had undergone ample discussions in its passage through the several branches of government. It had been carried into execution throughout a period of twenty years with annual legislative recognitions; in one instance, indeed, with a positive ramification of it into a new state; and with the entire acquiescence of all the local authorities as well as of the nation at large; to all of which may be added, a decreasing prospect of any change in the public opinion adverse to the constitutionality of such an institution. *A veto from the executive under these circumstances*, with an admission of the expediency and almost necessity of the measure, would have been a defiance of all the obligations derived from a course of precedents amounting to the requisite evidence of the national judgment and intention.

"It has been contended that the authority of precedents was in that case invalidated by the consideration that they proved only a respect for the stipulated duration of the bank, with a toleration of it until the law should expire, and by the casting vote given in the senate by the vice-president in the year 1811, against a bill for establishing a national bank, the vote being expressly given on the ground of unconstitutionality. But if the law itself was unconstitutional, the stipulation was void, and could not be constitutionally fulfilled or tolerated. And as to the negative of the senate by the casting vote of the presiding officer, it is a fact well understood at the time, that it resulted not from an equality of opinions in that assembly on the power of congress to

establish a bank, but from a junction of those who admitted the power, but disapproved the plan, with those who denied the power. On a simple question of constitutionality, there was a decided majority in favor of it."

NOTE H.—*Page 611.*

The case referred to is that of Samuel Gwinn, a clerk in the post office at Washington, who had been appointed by president Jackson, in 1831, during the recess of the senate, to the office of register in a land office in Mississippi. On the meeting of congress in December, Mr. Gwinn was nominated to the senate for the office to which he had been appointed. In consequence of a standing rule of the senate, not to appoint a person of one state to an office in another, the nomination was negatived; ayes, 13; noes, 25. At the same session, June 12, 1832, the name of Gwinn was again communicated to the senate; and the message was ordered to lie on the table. On the 10th of July, it was taken up, and the nomination was again laid on the table, 27 to 17.

On the 16th of July, during the last night's sitting, when many senators had left the city, a small majority only remaining, another attempt was made to get the nomination acted on, but it was resolved, that the president be informed that the senate would take no proceedings on the nomination, which was again ordered to lie on the table. Mr. Ellis, senator from Mississippi, called up the nomination, saying the president had declared that he would make no other nomination. But the senate resolved, that the president be informed, that no proceedings would be taken on the nomination, which was again laid on the table. This attempt of the president to induce the senate to recede from their determination was regarded as arbitrary.

It became a question, whether the vacancy occurring by the president's refusal to nominate another person, could be constitutionally filled by a new appointment by the president. The constitution provides that the commissions of persons appointed to fill vacancies happening during the recess of the senate, shall not hold beyond the next session. But if the president could make a new appointment after the adjournment, there was nothing to prevent his keeping a person in office at pleasure, without the consent of the senate. The question was referred to the attorney-general, Mr. Taney, who gave it as his opinion, that the president had power to reappoint after the adjournment of the senate.

NOTE I.—*Page 622.*

The "right of instruction," as it is called, has afforded to politicians a fruitful topic of discussion. It is a question upon which opposite opinions have been entertained by eminent statesmen. The doctrine is this: The representative is bound in all cases to act in accordance with the wishes of his constituents, whatever may be his own ideas of the effects of a particular measure upon which he may be called to act; or to resign his office, in order to allow them to substitute one who will conform to their views.

It is urged in favor of this doctrine, that it is in conformity with the

republican principle, which requires the representative to do what a majority of the people would do if they were to act in person; and hence, to do otherwise is virtually to substitute the will of one, or of a minority, for that of the majority. This, certainly, is a plausible argument, and one which, upon a bare statement of it, would almost seem to be incontrovertible; as no true republican would contend for a government by a minority.

The following arguments against the doctrine in question, are entitled to consideration :

If the right of instruction exists at all, it must be unlimited; and must apply not only to representatives in congress, but to representatives in state legislatures, who might be found to disagree with their constituents in the several districts they represent. And it must extend also to governors, judges, and other officers. The consequences of carrying out the principle to its full extent, would unsettle the government, multiply our elections indefinitely, and keep the public mind in a state of perpetual agitation. But as such an extension of the principle would not, it is presumed, find many advocates, we will suppose it to be confined to representative officers, and particularly to senators and representatives in congress, whose cases have, for the most part, given rise to the discussion.

A representative may, and in most cases probably does, possess means of information which are not accessible to the great body of his constituents, in relation to the particular measure upon which he differs with them. It may appear to him not only decidedly detrimental to the general welfare, but *unconstitutional*. Having sworn to support the constitution, he could not conscientiously vote for the measure. And if he believes it to be unconstitutional, ought he to give place to another who will aid in violating the constitution? Would he be inexcusable for thus *consenting* to the infraction of that instrument of which he has, for a specific period of time, been made one of its constitutional guardians?

So in regard to the *expediency* of a measure. He may, from careful and laborious investigation, and from infallible data, have come to a firm conviction that the adoption of a particular measure would be highly detrimental to the public interest; ought he surrender his post to one who he has the strongest reason to believe would aid in inflicting the injury upon the community?

Again: how is the representative to know the will of his constituents? They may never have expressed their opinions on the particular measure upon which the legislative instruction is given; and therefore the legislature itself has not the means of knowing what would be the expression of the people upon this question if submitted to them separate and distinct from all others. In electing the state legislatures, other questions have their influence in determining the votes of the mass of the electors; and it may be that the legislature, in their instructions, actually misrepresent the wishes of the majority of their constituents. There have been instances in which senators have been instructed upon questions which did not enter at all into the election of representatives in the state legislature. The legislature of a state, having been chosen principally for purposes of state legislation can not be presumed to

express the will of the people on a question foreign to such purposes; but the instructions, if the right exists at all, must come in a more direct manner, which shall leave no doubt as to the wishes of the majority. The constitution has made no provision for displacing a representative for a mere misrepresentation of a majority of his constituents. Under the old confederation, the delegates, though chosen for a year only, might at any time be recalled by the state legislatures, and their places filled by new appointments; but the constitution, while it has doubled the term of office of a representative, and has given to senators a term of six years, has made no provision for their recall or displacement for any political opinion whatever.

Nor is the silence of the constitution on this subject the result of inadvertence. The framers, on the contrary, seem to have contemplated the contingency which the advocates of the right of instruction regard as an evil, and which they would adopt *extra* constitutional means to prevent. This is inferred from the reasons which governed the convention in fixing the official terms of the different officers of the government. While, on the one hand, they intended to make the term so short as to insure a due degree of responsibility on the part of the representative; they deemed it important, on the other, to make it so long as effectually to guard against the evils of changeable legislation. This was deemed so essential, that propositions were made for a senate for life, or during good behavior, and for terms of from three to nine years. But as a mean between the longest and the shortest terms proposed, the term of six years was adopted. And what were the arguments of the framers in favor of so long a term for one of the branches of the legislature?

In reference to the evils of an unstable policy, which is the natural result of a too frequent change of those intrusted with the powers of legislation; and in view of those sudden popular excitements which demagogues well know how to produce; Mr. Madison, in defending a durable senate, says, in the 63d number of the *Federalist*: "As the cool and deliberate sense of the community ought, in all governments, and actually will, in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs, when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterward be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice, and truth, can regain their authority over the public mind! What bitter anguish would not the people of Athens have often escaped, if their government had contained so provident a safeguard against the tyranny of their own passions! Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day, and statues on the next."

In the above extract are noticed more particularly the liability to fluctuating legislation, in consequence of sudden popular convulsions, and the necessity of a senate like that provided by the constitution to

prevent the evil. In the preceding number, speaking more particularly of the "mutability of the public councils, arising from a rapid succession of new members," he says: "From this change of men must proceed a change of opinions; and from a change of opinions, a change of measures. But a continual change even of good measures is inconsistent with every rule of prudence. * * * It will be of little avail to the people, that the laws are made by men of their own choice. . . . if they are repealed or revised before they are promulgated, or undergo such incessant changes, that no man who knows what the law is to-day, can guess what it will be to-morrow. * * * What prudent merchant will hazard his fortunes in any new branch of commerce, when he knows not but that his plans may be rendered unlawful before they can be executed? What farmer or manufacturer will lay himself out for the encouragement of any particular cultivation or establishment, when he can have no assurance that his preparatory labors and advances will not render him a victim to an inconstant government?"

In answering the objection, that the appointment of senators by the state legislatures, instead of a direct election by the people, and for so long a term as six years, would render that body too independent of the people, and induce its members to abuse their power, Mr. Madison says: "Liberty may be endangered by the abuses of liberty, as well as by the abuses of power;" and then proceeds to give examples proving the safety of a permanent senate where it is counteracted by a popular branch elected for a short term. The practical effect of the doctrine in question would be to destroy the stability of the senate; to subject the country to the evils of a fluctuating policy, and thus defeat the very object of the constitution itself.

But it is affirmed that the contrary doctrine, instead of being anti-republican, because opposed to the will of the people, is really in accordance with the popular will, as expressed in the only way in which it can be constitutionally done, through the constitution itself. The constitution, presuming a senatorial term of six years to be preferable, *on the whole*, to a shorter one, fixed it at that period, without any provision against the contingency of a senator's opinions coming into conflict with those of the people of the state he is chosen to represent; and the act of the people in adopting the constitution with this provision, is to be taken as the true expression of their will, so long as that instrument shall remain unaltered. In adopting this provision, they have deliberately chosen to run the hazard of a temporary misrepresentation, in order to guard against the far greater evil of unstable legislation. To the constitution, therefore, we are to look for the legitimate expression of the will of the people. Even if their wishes could be infallibly ascertained in cases as they arise, the instructions, it is held, would not bind the representative to yield either his place or his opinions.

NOTE J.—Page 690.

Allusion was here made to a mob in the city of New York in February, 1837, instigated by a meeting held in pursuance of a notice published in some of the papers, and placarded through the city. It was at a time of high prices of provisions, fuel, rent, &c. The notice

declared, that "high prices must come down! The voice of the people shall be heard and will prevail!" The object of the meeting, which was announced to be held in the Park, "rain or shine," was "to inquire into the cause of the present unexampled distress, and to devise a suitable remedy."

About 5,000 persons assembled at the time and place appointed, and were addressed by several persons in an inflammatory style; after which a large body of the meeting proceeded to some flour stores, and destroyed wheat and flour, with other property, to the amount of about \$10,000.

NOTE K.—Page 702.

It is not the strangest fact in our political history, that the constitutional opinions of the leading statesmen of South Carolina, underwent, in the course of a few years, an entire change from the widest latitudinarianism to the most rigid strict construction. Nor is it the only instance of a total revolution of opinion in the history of our public men. It may, notwithstanding, be gratifying to the reader to notice the contrast between the former views of the nullifiers of that state, and their state rights doctrines at a subsequent period.

From a reply to a certain series of "radical" essays published in the state of Georgia, in 1821, is the following extract, ascribed to the pen of Mr. M'Duffie, of South Carolina:

"What security, then, did the convention, or, in other words, the people of the United States, provide to restrain their functionaries from usurping powers not delegated, and from abusing those with which they are really invested? * * * The constitution will tell you that it is the real security they have provided. It is the responsibility of the officers of the general government, not to the state authorities, but to themselves, the people. This, and this only, is the great conservative principle, which lies at the foundation of all our political institutions, and sustains the great and glorious fabric of our liberty. This great truth ought to be kept in constant and lively remembrance by every American.

"The states, as political bodies, have no original, inherent rights. That they have such rights is a false, dangerous, and anti-republican assumption, which lurks at the bottom of all the reasonings in favor of state rights.

"As far as I can collect any distinct propositions from the medly of unconnected quotations you have made on these very important subjects, I understand you to affirm, that in expounding the federal constitution, we should be "*tied down to the strict letter*" of that instrument; and that the general government 'was not made the exclusive or final judge of the extent of the powers to be delegated to itself; but that, as in all other cases of compact among parties having no common judge, each party had a right to judge for itself;—these may be considered the concentrated essence of all the wild and destructive principles that have ever been advanced in relation to the subjects under consideration!

"I should suppose, therefore, that no professional man could hesitate in saying, that a forcible opposition to the judgment of the federal court, founded upon an act of congress, by whatever state authority that opposition might be authorized, would be the very case which the

convention had in view, when they made provision for calling forth the militia to execute the laws of the union."

Mr. M'Duffie, in his essays, claims the authority of Mr. Calhoun, saying: "He (Mr. C.) was from the first a decided advocate of the navy, the bank, internal improvements, internal taxes when necessary, and liberal principles in construing the constitution for great, useful, and safe national purposes."

In a speech on the direct tax, in 1816, Mr. Calhoun said: "Let us make great permanent roads, not like the Romans, with the view of subjecting and ruling provinces, but for the more honorable purposes of defense; and connecting more closely the interests of various sections of this great country. Let any one look at the vast cost of transportation during the war, much of which is chargeable to the want of good roads and canals, and he will not deny the vast importance of a due attention to this object."

"Mr. C. proceeded to another topic—the encouragement proper to be afforded to the industry of the country. In regard to the question how far manufactures ought to be fostered, Mr. C. said it was the duty of this country, as a means of defense, to encourage the domestic industry of the country, more especially that part of it which provides the necessary materials for clothing and defense. Let us look at the nature of the war most likely to occur. England is in possession of the ocean; no man, however sanguine, can believe that we can deprive her soon of her predominance there. That control deprives us of the means of maintaining our army and navy cheaply clad. The question relating to manufactures must not depend upon the abstract principle that industry, left to pursue its own course, will find in its own interest all the encouragement that is necessary. I lay the claims of the manufacturers entirely out of view, said Mr. C.; but on general principles, without regard to their interest, a certain encouragement should be extended, at least to our woollen and cotton manufacturers."

NOTE L.—Page 707.

Mr. Adams having stated, in the course of a debate in congress, that the Florida treaty had been approved by Gen. Jackson, and the statement having been questioned by the Globe, he repeated the declaration, and exculpated himself. His remarks are reported thus:

"Mr. Adams repeated, in substance, that he was himself opposed to the relinquishment of Texas, and that no other man in the cabinet of Mr. Monroe sustained him. He negotiated the treaty with Don Onís, under the immediate direction of the president, (Mr. Monroe,) and never exchanged any communications with that minister which Mr. Monroe did not see. He (Mr. A.) was the last man in the administration who assented to the treaty. The treaty was concluded on the 22d of July, 1819. At that time Gen. Jackson was in the city, attending the proceedings of congress on the Seminole question. After the treaty had been agreed to, and before it was signed, Mr. Monroe requested him (Mr. A.) to submit it to Gen. Jackson, and obtain his opinion upon it. It was accordingly submitted to him, not as a military commander, but as a distinguished citizen. He called upon Gen. Jackson at the hotel

then kept by Strother, now Fuller's, and handed him the treaty, directing his attention particularly to the boundary. General Jackson kept it a day or two, and then returned it with his approbation."

NOTE M.—Page 747.

The number of defaulters was said to be not less than forty, whose defalcations amounted to about two millions of dollars. That of Samuel Swartwout, collector of the port of New York, alone, was about one million and a quarter.

NOTE N.—Page 799.

The following, having been inadvertently omitted in its regular place in the body of the work, is here inserted as a supplement to Chapter LXIV :

At the time of the passage of the act of June 25, 1842, for the apportionment of representatives according to the census of 1840, representatives were not in all the states chosen in single districts. The second section of the act above mentioned, required every state entitled to more than one representative, "to elect representatives by districts composed of contiguous territory, equal in number to the number of its representatives, no one district to elect more than one representative." In many of the states, there were some districts in each of which two or more were elected; and in some others, they were elected by general ticket. Such were the states of New Hampshire, Georgia, Mississippi, and Missouri. These states, electing twenty representatives, refused to comply with this provision of the above mentioned law; and when, on the assembling of the next congress, (December, 1843,) these representatives appeared to take their seats, their right to them was disputed on the ground that their election was illegal. Before proceeding to the election of a speaker, Mr. Barnard, of New York, arose to read a paper; but the reading was objected to; and leave to read the same was refused, 124 to 69. The paper was a PROTEST, signed by fifty-three members of the house, declaring the election of the persons appearing as representatives from these states to have been unconstitutional and illegal, and protesting against their participating in the election of speaker.

The speaker was elected *viva voce*. John W. Jones, of Virginia, was chosen, by 128 votes against 59 for John White, of Kentucky, and 1 for William Wilkins.

The subject of the election of the representatives from the states non-complying with the act of 1842, was referred to the committee on elections; and on the 22d of January, 1844, Mr. Douglas, of Illinois, in behalf of the committee, made a report, concluding with two resolutions, declaring the act of congress of 1842, "*not a law* made in pursuance of the constitution of the United States," and that all the members from the above named states were constitutionally and lawfully elected.

The authority for adopting that section of the apportionment law which nullified the state laws under which the elections had been held, the committee said, was supposed by its advocates to be derived from the 4th section of the 1st article of the constitution, which says: "The

times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators." The committee argued, that the first part of this clause *commanded* the state legislatures to act; the other *permitted* congress to act. An imperative duty rested upon the former; while to the latter only a privilege was granted. From this the committee appear to have drawn the inference, that the power here granted to congress was intended only as a conservative power, to be exercised in case a state legislature should fail or refuse to act, or should act in such a manner as to subvert the rights of the people and the principles of the constitution.

To support this construction, the report referred to the debates of the convention to form the constitution. When Gen. Pinckney proposed that representatives "should be elected in such manner as the legislature of each state should direct," he urged "that this liberty would give more satisfaction, as the legislature *could then accommodate the mode to the convenience and opinions of the people.*" And the latter part of the clause was agreed to with an explanation, that "this was meant to give to the national legislature a power, not only to alter the provisions of the states, but to make regulations in case *the states should fail or refuse altogether.*" And Gen. Hamilton, in the *Federalist*, defended this provision upon the same principle: "Its propriety rests upon the evidence of this plain proposition, that every government ought to contain within itself the means of its own preservation."

Mr. Davis, of Kentucky, from the minority of the committee, made a counter report. This report noticed a doctrine which had been lately assumed, that the clause under consideration established the general ticket system as the mode by which members are to be elected. This strange doctrine was deduced from the mode of electing senators and representatives. And the argument was, that the members of the state legislatures could not be divided into two classes, and the election of a senator be assigned to each. And, farther, as the people of the states were to elect their representatives, they could not be divided into districts, and those residing in a district be restricted to vote for a single representative; but all had the right to vote for all the representatives of a state. But the minority said, the position that *the house of representatives must be chosen by all the people of the several states*, proved too much for the purposes of its advocates. It went even beyond the general ticket, and required not only that *all the people* of a state must vote for as many persons as it had representatives, but *each representative must be chosen by the whole people.* The absurdity of the argument did not stop here. *All the people of every state* would be bound to "choose the house of representatives;" that is, the entire aggregate of representatives from ALL the states!

But the minority contended that the provisions of the constitution which require, that "the house of representatives shall be composed of members elected every second year by the *people of the several states*;" and that "the senate of the United States shall be composed of two senators from each state;" did not admit of the above construction. The plain object of them was to establish *the body of electors of the two*

houses, and not to prescribe the manner of choosing their members. The phraseology must be received as it was universally understood when the constitution was formed. The people of the states then elected, as now, the most numerous branch of their legislatures; and it was therefore obvious, that, when the constitution, after saying, as above, that the representatives shall be elected "by the people of the several states," immediately adds, "and the electors in each state shall have the qualifications requisite for electing the most numerous branch of the state legislature," the object was, as already stated, to determine who should constitute the body of electors; in other words, what should be the qualifications of the electors of representatives.

The minority differed also in their construction of the clause of the 4th section, which says: "The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the place of choosing senators." If this does not confer the power to determine whether members of the house shall be elected by districts or by general ticket, then the state legislatures have no jurisdiction over that part of the matter; and they have, from the origin of the government, usurped power in establishing the one mode or the other, at their pleasure. The report maintained that this power was vested both in the state legislatures and in congress. Mr. Madison, in the convention, when this clause was under consideration, said: "This view of the question seems to decide that the legislatures of the states ought not to have the uncontrolled right of regulating the times, places, and *manner* of holding elections. These are words of great latitude. It is impossible to foresee all the abuse that may be made of the *discretionary power*. Whether the elections should be by ballot, or *viva voce*; whether the electors should assemble at this place or at that place; should be divided into districts or all meet at one place; should *all* vote for *all* the representatives, or all in a *district* vote for a *member allotted to that district*;—these and many other points would depend upon the legislatures, and might materially affect the appointments." "It seemed to be as improper in principle, . . . to give to the state legislatures this great authority over the elections of the people in the general legislature, as it would be to give to the latter a like power over the election of their representatives in the state legislatures."

Mr. Hamilton, in the *Federalist*, says: "They have submitted the regulations of elections of the federal government, in the *first instance*, to the local administrations; which, in ordinary cases, and where no improper views prevail, may be both more convenient and more satisfactory. But they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety. * * * But there remains a positive advantage which will accrue to this disposition; . . . I allude to the circumstance of uniformity in the time of elections for the federal house of representatives." And in the New York convention which adopted the constitution, he said: "The natural and proper mode of holding elections will be to divide the states into districts in proportion to the number to be elected."

The *propriety* of the single district system was argued from the fact, that, by general ticket, six of the largest states could, by a bare majority of their votes, forming about one-fourth of the freemen of the United States, elect 119 members, and thus control the popular branch of the government.

The minority continue their argument at length, and conclude with a resolution, that the sitting members of the four states, "not having been elected in pursuance of the constitution and law, their seats, severally, are declared vacant."

NOTE TO Page 152.

After the death of Alexander Hamilton, there was found among his papers a manuscript copy of Washington's Farewell Address; information of which was communicated by Richard Peters to John Jay, in a letter of the 14th of February, 1811. The letter stated also that a certain gentleman had also a copy of it, in the same hand writing. From these facts it was presumed, that Gen. Hamilton was the *real*, and Gen. Washington only the *reputed* author of this address which had contributed so much to exalt his character and endear his name to the American people.

The answer of Judge Jay to this letter disclosed an interesting circumstance connected with the preparation of the address, which, but for Mr. Jay, would probably never have been made public: and that "monument of human excellence," as he appropriately terms it, might have carried with it doubts as to its real authorship through all future time. The whole letter of Mr. Jay would be read with interest. He bears testimony, from personal knowledge, not only to the moral worth, but to the "political talents and wisdom" of Washington, and to his ample ability to write such an address. He then gives what might be reasonably supposed to be evidence of its having been written by him; and concludes his letter as follows:

"They who knew president Washington and his various endowments, qualifications, and virtues, know that, (aggregately considered,) they formed a *tout ensemble* which has rarely been equaled, and perhaps never excelled.

"Thus much for presumptive evidence, I will now turn your attention to some that is direct.

"The history, (if it may be so called,) of the address is not unknown to me; but as I came to the knowledge of it under implied confidence, I doubted when I first received your letter, whether I ought to disclose it. On more mature reflection I became convinced that, if president Washington were now alive, and informed of the facts in question, he would not only authorize, but also desire me to reduce it to writing; that, when necessary, it might be used to invalidate the imputations to which those facts give color.

"This consideration terminated my doubts. I do not think that a disclosure is necessary at this time; but I fear such a moment will arrive. Whether I shall then be alive, or in capacity to give testimony, is so uncertain, that, in order to avoid the risk of either, I shall now reduce it to writing, and commit it to your care and discretion, 'de bene esse,' as the lawyers say.

"Some time before the address appeared, colonel (afterwards general) Hamilton informed me that he had received a letter from president Washington, and with it the draft of a farewell address, which the president had prepared, and on which he requested our opinion. He then proposed to fix on a day for an interview at my house on the subject. A day was accordingly appointed; and on that day Col. Hamilton attended. He observed to me in words to this effect, that, after having read and examined the draft, it appeared to him to be susceptible of improvement. That the easiest and best way was to leave the draft untouched, and in its fair state; and to write the whole over with such amendments, alterations, and corrections, as he thought were advisable; and that he had done so. He then proposed to read it; and we proceeded deliberately to discuss and consider it, paragraph by paragraph, until the whole met our mutual approbation. Some amendments were made during the interview, but none of much importance.

"Although this business had not been hastily despatched, yet aware of the consequence of such a paper, I suggested the giving it a further critical examination; but he declined it, saying he was pressed for time, and was anxious to return the draft to the president without delay.

"It afterwards occurred to me, that a certain proposition was expressed in terms too general and unqualified; and I hinted it in a letter to the president. As the business took the course above mentioned, a recurrence to the draft was unnecessary, and it was not read. There was this advantage in the course pursued: the president's draft remained, (as delicacy required,) fair and not obscured by interlineations, &c. By comparing it with the paper sent with it, he would immediately observe the particular emendations and corrections that were proposed, and would find them standing in their intended places. Hence he was enabled to review, and to decide the whole matter, with much greater clearness and facility, than if he had received them in separate and detached notes, and with detailed references to the pages and lines where they were advised to be introduced."

This letter appears in Niles' Register of October 21, 1826, about three years before Mr. Jay's death. Whether it had been in print previous to that time, or not, or what was the immediate cause of its publication, we are not informed.

In 1836, after the death of Mr. Madison, which occurred the same year, remarks appeared in several papers, ascribing to him the authorship of Washington's valedictory address, and tending to produce an erroneous impression. Mr. Sparks, editor of the writings of Washington, in anticipation of their publication, caused to be published the correspondence between Washington and Madison on the subject.

In a letter to Mr. Madison, dated May 20, 1792, Washington, not having determined to be a candidate for reelection, requested him to draw up an address, to be used in case he should conclude to retire, and mentioned the principal topics which he wished it to contain. Mr. Madison, in compliance with the request, prepared a paper, and subsequently delivered it to him in person. Having consented to a reelection, he had no occasion to use it. Compared with the address published four years after, it will be found to bear but a slight resemblance to it, while it is evident that it was consulted in preparing the final address.

The draft of Mr. Madison, it is unnecessary to say, was an able one, about one-fourth of the length of the last; and is said to have met Washington's entire approbation at the time.

NOTE to Page 557.

The following, from the *Intelligencer*, contains little more than the conclusions of the court on the main points involved in the controversy.

"The opinion of the chief justice was very elaborate and clear. He took a review of the origin of the European title to lands in America, upon the ground of discovery. He established that this right was merely conventional among the European governments themselves, and for their own guidance, and the regulation of their own claims in regard to each other, and in no respect changed, or affected to change the rights of the Indians in respect to the soil. That the only effect of the European title was, as between European nations, to recognize an exclusive right of trade and intercourse with the Indians, and of ultimate dominion in the territories occupied by the Indians in favor of the nation or government whose subjects were the first discoverers. That all the European governments, France, Spain, and especially Great Britain, had uniformly recognized the Indian tribes and nations as distinct communities, capable of, and entitled to, self-government, as states, and in no respect, except as to their right of intercourse with other European nations, and the right of preëmption in the discoverers to purchase their soil, as under the control or power of the Europeans. They were treated as nations capable of holding and ceding their territories, capable of making treaties and compacts, and entitled to all the powers of peace and war, and not as conquered and enslaved communities. He demonstrated this from various historical facts, and showed that when upon the revolution the United Colonies succeeded to the rights and claims of the mother country, the American congress uniformly adopted and adhered to the same doctrine, both before and after the confederation; that, since the adoption of the constitution, the same doctrine had as uniformly prevailed in all the departments of the government; and that the treaties were obligatory in the same sense as treaties between European sovereigns. He showed also that this had been the established course of things, recognized by Georgia herself, from the adoption of the constitution down to the year 1829, as evinced by her solemn acts, compacts and laws. He then showed that, by the constitution, the exclusive power belonged to the United States to regulate intercourse with the Indians, and to receive cessions of their lands; and to make treaties with them. That their independence of the state governments had been constantly upheld; that the right of possession to their land was solemnly guaranteed by the United States, and by treaties with them, until that title should, with their own consent, be extinguished; and that the laws passed by congress had regulated the trade and intercourse with them accordingly. He now reviewed the laws of Georgia in question, and pronounced them repugnant to the constitution, treaties and laws of the United States. And he concluded by maintaining that the party defendant in the present indictment was entitled to the protection of the constitution, treaties and laws of the United States; and that

Georgia had no authority to extend her laws over the Cherokee country, or to punish the defendant for disobedience to those laws in the Cherokee country."

STATISTICS.

STATEMENT OF THE ELECTORAL VOTES

For the different candidates for President and Vice-President, from 1789 to 1853. The year of each election refers to the time of *counting* the electoral votes, and not to the time at which they were given.

At the first four elections, no person was named for vice-president. Two persons were voted for by each elector; and the person having next to the highest number of votes, was elected vice-president.

1789—NUMBER OF ELECTORS, 69.

George Washington, <i>Va</i>	69	John Rutledge, <i>S. C.</i>	6
John Adams, <i>Mass</i>	34	John Hancock, <i>Mass</i>	4
John Jay, <i>N. Y.</i>	9	George Clinton, <i>N. Y.</i>	3
R. H. Harrison,.....	6	All others.....	8

Three states, viz: New York, entitled to 8 electoral votes, Rhode Island 3, and North Carolina 7, did not vote at this election. The first had not passed an electoral law; the two last had not yet adopted the constitution.

1793—NUMBER OF ELECTORS, 135.

George Washington, (3 vacancies).....	132	Thomas Jefferson.....	5
John Adams.....	77	Aaron Burr, <i>N. Y.</i>	1
George Clinton.....	50		

1797—NUMBER OF ELECTORS, 138.

John Adams,.....	71	Oliver Ellsworth, <i>Conn</i>	11
Thomas Jefferson,.....	68	George Clinton,.....	7
Thomas Pinckney,.....	59	John Jay,.....	5
Aaron Burr,.....	30	James Iredell, <i>N. C.</i>	3
Samuel Adams, <i>Mass</i>	15	All others,.....	7

1801—NUMBER OF ELECTORS, 138.

Thomas Jefferson,.....	73	Charles Cotesworth Pinckney, <i>S. C.</i>	64
Aaron Burr,.....	73	John Jay,.....	1
John Adams,.....	65		

The two highest numbers of votes being equal, the election devolved upon the house of representatives. Mr. Jefferson was chosen on the 36th ballot. Before the next election, the present mode was established, by the adoption of the 12th amendment of the constitution.

1805—NUMBER OF ELECTORS, 176.

<i>For President.</i>		<i>For Vice-President.</i>	
Thomas Jefferson,.....	162	George Clinton,.....	162
Charles C. Pinckney,.....	14	Rufus King, <i>N. Y.</i>	14

1809—NUMBER OF ELECTORS, 176.

James Madison, <i>Va.</i>	122	George Clinton,.....	113
Charles C. Pinckney,.....	47	Rufus King,.....	47
George Clinton,.....	6	John Langdon, <i>N. H.</i>	9
One vacancy,.....	1	Scattering and vacancy,.....	7

1813—NUMBER OF ELECTORS, 217.

James Madison,.....	128	Elbridge Gerry, <i>Mass.</i>	131
De Witt Clinton, <i>N. Y.</i>	89	Jared Ingersoll, <i>Pa.</i>	86

1817—NUMBER OF ELECTORS, 221.

James Monroe, <i>Va.</i>	183	Daniel D. Tompkins, <i>N. Y.</i>	183
Rufus King,.....	34	John E. Howard, <i>Mass.</i>	22
Vacancies,.....	4	James Ross,.....	6
		All others and vacancies,.....	11

1821—NUMBER OF ELECTORS, 232.

James Monroe,.....	231	Daniel D. Tompkins,.....	218
John Quincy Adams,.....	1	Richard Stockton, <i>N. J.</i>	8
		Daniel Rodney, <i>Del.</i>	4
		All others,.....	2

1825—NUMBER OF ELECTORS, 261.

Andrew Jackson, <i>Tenn.</i>	99	John C. Calhoun, <i>S. C.</i>	182
John Quincy Adams,.....	84	Nathan Sanford, <i>N. Y.</i>	30
Wm. H. Crawford, <i>Ga.</i>	41	Nathaniel Macon, <i>N. C.</i>	24
Henry Clay,.....	37	Andrew Jackson,.....	13
		Martin Van Buren,.....	9
		Henry Clay, 2; 1 (<i>R. I.</i>) not voting	3

No candidate for president having a majority of all the votes, the election was made by the house from the three having received the highest numbers of votes; the representatives voting by states. Mr. Adams received the votes of 13 states, (a majority;) Gen. Jackson, 7; Mr. Crawford, 4.

1829—NUMBER OF ELECTORS, 261.

Andrew Jackson,.....	178	John C. Calhoun,.....	171
John Quincy Adams,.....	83	Richard Rush, <i>Pa.</i>	83
		Wm. Smith, <i>S. C.</i> ,.....	7

1833—NUMBER OF ELECTORS, 288.

Andrew Jackson,.....	219	Martin Van Buren,.....	189
Henry Clay,.....	49	John Sergeant,.....	49
John Floyd, <i>Va.</i>	11	William Wilkins, <i>Pa.</i>	30
Wm. Wirt, <i>Va.</i> , (anti-mason,).....	7	Henry Lee, <i>Va.</i>	11
Vacancies,.....	2	Amos Ellmaker, <i>Pa.</i> , (anti-mason,).....	7
		Vacancies,.....	2

1837—NUMBER OF ELECTORS, 294.

Martin Van Buren,.....	170	Richard M. Johnson, <i>Ky.</i>	147
William H. Harrison, <i>O.</i>	73	Francis Granger, <i>N. Y.</i>	77
Hugh L. White, <i>Tenn.</i>	26	John Tyler, <i>Va.</i>	47
Daniel Webster,.....	14	William Smith, <i>S. C.</i>	23
Willie P. Mangum, <i>N. C.</i>	11		

No candidate for vice-president having received a majority, Col. Johnson was elected by the senate.

1841—NUMBER OF ELECTORS, 294.

William H. Harrison.....	234	John Tyler,.....	234
Martin Van Buren,.....	60	Richard M. Johnson,.....	48
		Littleton W. Tazewell, <i>Va.</i>	11
		James K. Polk, <i>Tenn.</i>	1

1845—NUMBER OF ELECTORS, 275.

James K. Polk,.....	170	George M. Dallas, <i>Pa.</i>	170
Henry Clay,.....	105	Theodore Frelinghuysen,.....	105

1849—NUMBER OF ELECTORS, 290.

Zachary Taylor, <i>La.</i>	163	Millard Fillmore, <i>N. Y.</i>	163
Lewis Cass,.....	127	William O. Butler, <i>Ky.</i>	127

1853—NUMBER OF ELECTORS, 296.

Franklin Pierce, <i>N. H.</i>	254	William R. King, <i>Ala.</i>	254
Winfield Scott, <i>Va.</i>	42	William A. Graham,.....	42

SECRETARIES OF STATE.

Thomas Jefferson, <i>Va.</i>	Sept. 26, 1789	John Forsyth, <i>Ga.</i>	June 27, 1834
Edmund Randolph, <i>Va.</i>	Jan. 2, 1794	Daniel Webster, <i>Mass.</i>	March 5, 1841
Timothy Pickering, <i>Mass.</i>	Dec. 16, 1795	Hugh S. Legare, <i>S. C.</i>	May 9, 1843
John Marshall, <i>Va.</i>	May 13, 1800	Abel P. Upshur, <i>Va.</i>	June 24, 1843
James Madison, <i>Va.</i>	March 5, 1801	John Nelson, (acting)....	Feb. 29, 1844
Robert Smith, <i>Md.</i>	March 6, 1809	John C. Calhoun, <i>S. C.</i>	March 6, 1844
James Monroe, <i>Va.</i>	Nov. 25, 1811	James Buchanan, <i>Pa.</i>	March 5, 1845
John Q. Adams, <i>Mass.</i>	March 3, 1817	John M. Clayton, <i>Del.</i>	March 7, 1849
Henry Clay, <i>Ky.</i>	March 8, 1825	Daniel Webster, <i>Mass.</i>	July 20, 1850
Martin Van Buren, <i>N. Y.</i>	March 6, 1829	Edward Everett, <i>Mass.</i>	1852
Edward Livingston, <i>La.</i>	1831	Wm. L. Marcy, <i>N. Y.</i>	March 5, 1853
Louis M' Lane, <i>Del.</i>	March, 7, 1833		

SECRETARIES OF THE TREASURY.

Alex. Hamilton, <i>N. Y.</i>	Sept. 11, 1789	Roger B. Taney, <i>Md.</i>	1833
Oliver Wolcott, <i>Conn.</i>	Feb. 3, 1795	(not confirmed.)	
Samuel Dexter, <i>Mass.</i>	Dec. 31, 1800	Levi Woodbury, <i>N. H.</i>	June 21, 1834
Albert Gallatin, <i>Pa.</i>	Jan. 26, 1802	Thomas Ewing, <i>O.</i>	March 5, 1841
Geo. W. Campbell, <i>Tenn.</i>	Feb. 9, 1814	Walter Forward, <i>Pa.</i>	Sept. 13, 1841
Alex. J. Dallas, <i>Pa.</i>	Oct. 6, 1814	John C. Spencer, <i>N. Y.</i>	March 3, 1843
Wm. H. Crawford, <i>Ga.</i>	March 5, 1817	George M. Bibb, <i>Ky.</i>	Jan. 15, 1844
Richard Rush, <i>Pa.</i>	" 7, 1825	Robert J. Walker, <i>Miss.</i>	March 5, 1845
Samuel D. Ingham, <i>Pa.</i>	" 6, 1829	Wm. M. Meredith, <i>Pa.</i>	" 7, 1849
Louis M' Lane, <i>Del.</i>	1831	Thomas Corwin, <i>O.</i>	July 20, 1850
Wm. J. Duane, <i>Pa.</i>	1833	James Guthrie, <i>Ky.</i>	March 5, 1853

SECRETARIES OF WAR.

Henry Knox, <i>Mass.</i>	Sept. 12, 1789	John H. Eaton, <i>Tenn.</i>	March 9, 1829
Timothy Pickering, <i>Mass.</i>	Jan. 2, 1795	Lewis Cass, <i>Ohio.</i>	1831
James M'Henry, <i>Md.</i>	Jan. 27, 1796	Joel R. Poinsett, <i>S. C.</i>	March 7, 1837
Samuel Dexter, <i>Mass.</i>	May 13, 1800	John Bell, <i>Tenn.</i>	" 5, 1841
Roger Griswold, <i>Conn.</i>	Feb. 3, 1801	John M'Lean, (declined).....	Sept. 13, 1841
Henry Dearborn, <i>Mass.</i>	March 4, 1801	John C. Spencer, <i>N. Y.</i>	Oct. 12, 1841
William Eustis, <i>Mass.</i>	" 7, 1809	James M. Porter, <i>Pa.</i>	March 8, 1843
John Armstrong, <i>N. Y.</i>	Jan. 19, 1813	William Wilkins, <i>Pa.</i>	Feb. 15, 1844
James Monroe, <i>Va.</i>	Sept. 26, 1814	Wm. L. Marcy, <i>N. Y.</i>	March 5, 1845
Wm. H. Crawford, <i>Ga.</i>	March 2, 1815	George W. Crawford, <i>Ga.</i>	" 7, 1849
Isaac Shelby, <i>Ky.</i> (dec.).....	" 5, 1817	Edmund Bates, (declined).....	July 20, 1850
John C. Calhoun, <i>S. C.</i>	Dec. 16, 1817	Charles M. Conrad, <i>La.</i>	Aug. 15, 1850
James Barbour, <i>Va.</i>	March 7, 1825	Jefferson Davis, <i>Miss.</i>	March 5, 1852
Peter B. Porter, <i>N. Y.</i>	May 26, 1828		

SECRETARIES OF THE NAVY.

George Cabot, <i>Mass.</i>	May 8, 1798	Jas. K. Paulding, <i>N. Y.</i> ...	June 30, 1838
Benj. Stoddart, <i>Mass.</i>	" 21, 1798	Geo. E. Badger, <i>N. C.</i> ...	March 5, 1841
Robert Smith, <i>Mass.</i>	Jan. 26, 1802	Abel P. Upshur, <i>Va.</i>	Sept. 13, 1841
J. Crowninshield, <i>Mass.</i> ...	March 2, 1805	David Henshaw, <i>Mass.</i> ...	July 24, 1843
Paul Hamilton, <i>S. C.</i>	" 7, 1809	Thomas W. Gilmer, <i>Va.</i> ...	Feb. 15, 1844
B. W. Crowninshield, <i>Mass.</i>	Dec. 17, 1814	John Y. Mason, <i>Va.</i>	March 14, 1844
Smith Thompson, <i>N. Y.</i> ...	Nov. 30, 1818	George Bancroft, <i>Mass.</i> ...	" 10, 1845
Samuel L. Southard, <i>N. J.</i>	Dec. 9, 1823	John Y. Mason, <i>Va.</i>	1846
John Branch, <i>N. C.</i>	March 9, 1829	Wm. A. Graham, <i>N. C.</i> ...	July 20, 1850
Levi Woodbury, <i>N. H.</i> ...	1831	James C. Dobbin, <i>N. C.</i> ...	March 5, 1853
Mahlon Dickerson, <i>N. J.</i> ...	June 30, 1834		

SECRETARIES OF THE INTERIOR.

Thomas Ewing, <i>O.</i>	March 7, 1849	Robert M'Clelland, <i>Mich.</i>	March, 1853
Alex. H. H. Stuart, <i>Va.</i> ...	Sept. 12, 1850		

POSTMASTERS-GENERAL.

Samuel Osgood, <i>Mass.</i> ...	Sept. 26, 1789	John M. Niles, <i>Conn.</i>	May 25, 1840
Timothy Pickering, <i>Mass.</i>	Nov. 7, 1794	Francis Granger, <i>N. Y.</i> ...	March 6, 1841
Jacob Habersham, <i>Ga.</i>	Feb. 25, 1795	Charles A. Wickliffe, <i>Ky.</i>	Sept. 13, 1841
Gideon Granger, <i>Conn.</i> ...	Jan. 26, 1802	Cave Johnson, <i>Tenn.</i>	March 5, 1845
Return J. Meigs, <i>O.</i>	March 17, 1814	Jacob Collamer, <i>Vt.</i>	" 7, 1849
John M'Lean, <i>O.</i>	Dec. 9, 1823	Nathan K. Hall, <i>N. Y.</i> ...	July 20, 1850
William T. Barry, <i>Ky.</i> ...	March 9, 1829	Samuel D. Hubbard, <i>Conn.</i>	Oct. , 1852
Amos Kendall, <i>Ky.</i>	May 1, 1835	James Campbell, <i>Penn.</i> ...	March 5, 1853

ATTORNEYS-GENERAL.

Edmund Randolph, <i>Va.</i> ...	Sept. 26, 1789	Benj. F. Butler, <i>N. Y.</i> ...	Dec. 25, 1835
William Bradford, <i>Pa.</i>	Jan. 27, 1794	Felix Grundy, <i>Tenn.</i>	Sept. 1, 1838
Charles Lee, <i>Va.</i>	Dec. 10, 1795	Henry D. Gilpin, <i>Pa.</i>	Jan. 11, 1840
Levi Lincoln, <i>Mass.</i>	March 5, 1801	John J. Crittenden, <i>Ky.</i> ...	March 5, 1841
Robert Smith, <i>Mass.</i>	" 3, 1805	Hugh S. Legare, <i>S. C.</i> ...	Sept. 13, 1841
John Breckenridge, <i>Ky.</i> ...	Jan. 17, 1806	John Nelson, <i>Md.</i>	July 1, 1843
Cæsar A. Rodney, <i>Del.</i> ...	Jan. 20, 1807	John Y. Mason, <i>Va.</i>	March 5, 1845
William Pinkney, <i>Del.</i>	Dec. 11, 1811	Nathan Clifford, <i>Me.</i>	1847
Richard Rush, <i>Pa.</i>	Feb. 10, 1814	Isaac Toucey, <i>Conn.</i>	1848
William Wirt, <i>Va.</i>	Dec. 16, 1817	Reverdy Johnson, <i>Md.</i> ...	March 6, 1849
John M'P. Berrien, <i>Ga.</i> ...	March 19, 1829	John J. Crittenden, <i>Ky.</i> ...	July 20, 1850
Roger B. Taney, <i>Md.</i>	Dec. 1831	Caleb Cushing, <i>Mass.</i> ...	March 5, 1853

CHIEF JUSTICES OF THE SUPREME COURT.

John Jay, <i>N. Y.</i>	Sept. 26, 1789	John Jay, <i>N. Y.</i>	Dec. 19, 1800
John Rutledge, <i>S. C.</i>	July 1, 1795	John Marshall, <i>Va.</i>	Jan. 27, 1801
William Cushing, <i>Mass.</i> ...	Jan. 27, 1796	Roger B. Taney, <i>Md.</i>	Dec. 28, 1835
Oliver Ellsworth, <i>Conn.</i>	March 4, 1796		

ASSOCIATE JUSTICES OF THE SUPREME COURT.

John Rutledge, <i>S. C.</i>	Sept. 26, 1789	Joseph Story, <i>Mass.</i>	Nov. 18, 1811
William Cushing, <i>Mass.</i> ...	" 27, 1789	Smith Thompson, <i>N. Y.</i> ...	Dec. 9, 1823
Robert H. Harrison, <i>Md.</i> ...	" 28, 1789	Robert Trimble, <i>Ky.</i>	March 9, 1826
James Wilson, <i>Pa.</i>	" 29, 1789	John M'Lean, <i>O.</i>	" 7, 1829
John Blair, <i>Va.</i>	" 30, 1789	Henry Baldwin, <i>Pa.</i>	Jan. 6, 1830
James Iredell, <i>N. C.</i>	Feb. 10, 1790	James M. Wayne, <i>Ga.</i> ...	Jan. 18, 1835
Thomas Johnson, <i>Md.</i> ...	Nov. 7, 1791	Philip B. Barbour, <i>Va.</i> ...	March 15, 1836
Wm. Patterson, <i>N. Y.</i> ...	March 1, 1793	William Smith, <i>Ala.</i>	" 8, 1837
Samuel Chase, <i>Md.</i>	Jan. 27, 1796	John Catron, <i>Tenn.</i>	" 8, 1837
Bushrod Washington, <i>Va.</i>	Dec. 20, 1798	John M'Kinley, <i>Ala.</i>	Sept. 3, 1837
Wm Johnson, <i>S. C.</i>	March 26, 1804	Peter V. Daniel, <i>Va.</i> ...	March 3, 1837

Brock. Livingston, <i>N. Y.</i> Jan. 16, 1807	Samuel Nelson, <i>N. Y.</i> Feb. 1845
Thomas Todd, <i>Va.</i> March 3, 1807	Levi Woodbury, <i>N. H.</i> Jan. 1846
Levi Lincoln, <i>Mass.</i> Jan. 7, 1811	Robert C. Grier, <i>Pa.</i> 1846
John Q. Adams, (declined) Feb. 22, 1811	Benj. R. Curtis, <i>Mass.</i> 1850
Gabriel Duval, <i> Md.</i> Nov. 18, 1811	Ed. A. Bradford, <i>La.</i> 1852

CONGRESS OF THE UNITED STATES.

The number of representatives from each state, until after the first enumeration in 1790, was specified in the constitution. By the act of apportionment of 1792, the several states were allowed a representative for every 33,000 of the representative population; which gave an aggregate representation of 106. In 1802, the ratio of representation under the census of 1800, was again fixed at 33,000, making a house of 142 members. Under the census 1810, the ratio was 35,000, and the number of members 182. Under the census of 1820, the ratio was 40,000, and the number of members 213. After 1830, the ratio was made 47,700, with a house of 240. After the census of 1840, a ratio of 70,680 was adopted, making 223 members. After the census of 1850, the ratio was 93,000, giving an aggregate representation of 233 members, of which number, California had one; but by special enactment that state was allowed an additional member, making in all 234.

COMPENSATION OF MEMBERS OF CONGRESS.

From the first congress, in 1789, inclusive, until March 4, 1795, senators and representatives received each \$6 per diem, and \$6 for every twenty miles travel. From March 4, 1795, to March 4, 1796, senators received \$7, and representatives \$6 per diem. From March 4, 1796, until December 5, 1815, the per diem was \$6, and the mileage \$6, to senators and representatives. From Dec. 4, 1815, until March 4, 1817, each senator and representative received \$1,500 per annum, with a proportional deduction for absence, from any cause but sickness. The president of the senate pro tempore, and speaker of the house, \$3,000 per annum, each. From March 4, 1817, the compensation to members of both houses has been \$8 per diem, and \$8 for every twenty miles travel; and to the president of the senate pro tempore, and speaker of the house, \$16 per diem.—(See next page.)

SPEAKERS OF THE HOUSE OF REPRESENTATIVES.

Congress.

1st,	Frederick A. Muhlenburg, <i>Pa.</i>
2d,	Jonathan Trumbull, <i>Conn.</i>
3d,	F. A. Muhlenburg, <i>Pa.</i>
4th,	Jonathan Dayton, <i>N. J.</i>
5th,	Jonathan Dayton, <i>N. J.</i>
6th,	Theodore Sedgwick, <i>Mass.</i>
7th,	Nathaniel Macon, <i>N. C.</i>
8th,	Nathaniel Macon, <i>N. C.</i>
9th,	Nathaniel Macon, <i>N. C.</i>
10th,	Joseph B. Varnum, <i>Mass.</i>
11th,	Joseph B. Varnum, <i>Mass.</i>
12th,	Henry Clay, <i>Ky.</i>
13th,	Henry Clay, <i>Ky.</i>
"	Langdon Cheves, <i>S. C.</i>
14th,	Henry Clay, <i>Ky.</i>
15th,	Henry Clay, <i>Ky.</i>
16th,	Henry Clay, <i>Ky.</i>
	John W. Taylor, <i>N. Y.</i>

Congress.

17th,	P. P. Barbour, <i>Va.</i>
18th,	Henry Clay, <i>Ky.</i>
19th,	John W. Taylor, <i>N. Y.</i>
20th,	Andrew Stevenson, <i>Va.</i>
21st,	Andrew Stevenson, <i>Va.</i>
22d,	Andrew Stevenson, <i>Va.</i>
23d,	Andrew Stevenson, <i>Va.</i>
"	John Bell, <i>Tenn.</i>
24th,	James K. Polk, <i>Tenn.</i>
25th,	James K. Polk, <i>Tenn.</i>
26th,	Robert M. T. Hunter, <i>Va.</i>
27th,	John White, <i>Ky.</i>
28th,	John W. Jones, <i>Va.</i>
29th,	John W. Davis, <i>Ind.</i>
30th,	Robert C. Winthrop, <i>Mass.</i>
31st,	Howell Cobb, <i>Ga.</i>
32d,	Linn Boyd, <i>Ky.</i>
33d,	— — —

SENATORS ELECTED PRESIDENTS OF THE SENATE PRO TEMPORE.

John Langdon, <i>N. H.</i> April, 1789	Stephen R. Bradley, <i>Vt.</i> Dec., 1808
Richard Henry Lee, <i>Va.</i> " 1792	John Milledge, <i>Ga.</i> Jan., 1809
John Langdon, <i>N. H.</i> May, 1792	Andrew Gregg, <i>Penn.</i> " "
John Langdon, <i>N. H.</i> March, 1793	John Gaillard, <i>S. C.</i> Feb., 1810
Ralph Izard, <i>S. C.</i> May, 1794	John Pope, <i>Ky.</i> Feb. 1811
Henry Tazewell, <i>Va.</i> Feb., 1795	William H. Crawford, <i>Ga.</i> March, 1812
Samuel Livermore, <i>N. H.</i> May, 1796	Joseph B. Varnum, <i>Mass.</i> Dec., 1813
William Bingham, <i>Penn.</i> Feb. 1797	John Gaillard, <i>S. C.</i> April, 1814
William Bradford, <i>R. I.</i> July, 1797	James Barbour, <i>Va.</i> Feb., 1819
Jacob Read, <i>S. C.</i> Nov., 1797	John Gaillard, <i>S. C.</i> Jan., 1820
Theodore Sedgwick, <i>Mass.</i> .. June, 1798	Nathaniel Macon, <i>N. C.</i> May, 1826
John Lawrence, <i>N. Y.</i> Dec., 1798	Samuel Smith, <i>Md.</i> " 1823
James Ross, <i>Penn.</i> March, 1799	Littleton W. Tazewell, <i>Va.</i> .. July, 1832
Samuel Livermore, <i>N. H.</i> Dec., 1799	Hugh L. White, <i>Tenn.</i> Dec., 1832
Uriah Tracey, <i>Conn.</i> May, 1800	George Poindexter, <i>Miss.</i> Jan., 1834
John E. Howard, <i>Md.</i> Nov., 1800	John Tyler, <i>Va.</i> March, 1835
James Hillhouse, <i>Conn.</i> Feb., 1801	William R. King, <i>Ala.</i> July, 1836
Abraham Baldwin, <i>Ga.</i> Dec., 1801	Samuel L. Southard, <i>N. J.</i> .. Mar., 1841
Stephen R. Bradley, <i>Vt.</i> Dec., 1802	Willie P. Mangum, <i>N. C.</i> May, 1842
John Brown, <i>Ky.</i> Oct., 1803	David R. Atchison, <i>Missouri.</i> , Aug., 1846
Jesse Franklin, <i>N. C.</i> March, 1804	William R. King, <i>Ala.</i> July, 1850
Joseph Anderson, <i>Tenn.</i> Jan., 1805	and
Samuel Smith, <i>Md.</i> Dec. 1805	David R. Atchison, <i>Missouri.</i> , Dec. 1852

COMPENSATION OF MEMBERS OF CONGRESS.

By an act of congress, 1856, instead of the per diem allowance of \$8, members receive a salary of \$3,000 a year, and the same mileage as formerly. For each day's absence, unless from the cause of sickness, \$8 are deducted from the salary. The president of the senate *pro tem.* receives the same as the vice-president; the speaker of the house, double the salary of a member.

IMPORTS AND EXPORTS

FROM THE YEAR 1821 TO 1850, WITH THE NET REVENUE ACCRUING FROM
THE IMPORTS.

Year.	Imports, including specie.	Exports, including specie.	Net Revenue.	Imports, coin and bullion.	Exports, coin and bullion.
*1821	\$62,585,724	\$64,974,382	\$15,155,418		
1822	82,241,541	72,160,281	21,219,116		
1823	77,579,267	74,699,030	17,717,830		
1824	80,549,007	75,986,657	20,215,059		
1825	96,340,075	99,535,388	25,387,904	\$6,150,765	\$8,932,034
1826	84,974,477	77,595,322	18,997,478	6,880,966	4,704,533
1827	79,484,068	82,324,827	22,378,046	8,151,130	8,014,880
1828	88,509,824	72,264,686	24,890,337	7,489,741	8,243,476
1829	74,492,227	72,358,671	22,296,512	7,403,612	4,924,020
1830	70,876,920	73,849,508	22,833,573	8,155,964	2,178,773
1831	103,191,124	81,310,583	30,312,851	7,305,945	9,014,931
1832	101,029,266	87,176,943	21,488,890	5,907,504	5,565,340
1833	108,181,311	90,140,433	14,797,782	7,070,368	2,611,701
1834	126,521,332	104,336,972	13,458,111	17,911,632	2,076,758
1835	149,895,742	121,693,577	21,552,272	13,131,447	6,477,775
1836	189,980,035	128,663,040	26,325,839	13,400,881	4,324,336
1837	140,989,217	117,419,376	13,315,129	10,516,414	5,976,249
1838	113,717,404	108,486,616	15,373,238	17,747,116	3,508,046
1839	162,092,132	121,028,416	20,560,439	5,595,176	8,776,743
1840	107,141,519	132,085,946	10,159,339	8,882,813	8,417,014
1841	127,946,477	121,851,803	15,516,589	4,988,633	10,034,332
1842	100,162,087	104,691,534	12,780,173	4,087,016	4,813,539
1843*	64,763,799	84,346,480	6,132,272	22,390,559	1,520,791
1844	108,435,035	111,200,046	26,183,570	5,830,429	5,454,214
1845	117,254,564	114,646,606	27,528,112	4,070,242	8,606,495
1846	121,691,797	113,488,516	26,712,608	3,777,732	3,905,268
1847	146,545,638	158,648,622	23,747,864	24,121,289	1,907,739
1848	154,977,928	154,436,436	31,757,070	6,360,224	15,841,620
1849	147,857,439	145,755,820	28,346,738	6,651,240	5,404,648
1850	178,138,318	151,898,720	39,668,686	4,628,792	7,522,994
1851	216,224,932	218,388,011	49,017,567	5,453,592	29,472,752
1852	212,945,442	209,641,625	49,339,326	5,503,544	42,674,135
1853	267,978,647	230,452,250	58,931,865	4,201,382	27,486,875
1854	304,562,381	278,241,064	64,224,190	6,906,162	41,422,423

* Nine Months.

A STATEMENT

EXHIBITING THE VALUE OF CERTAIN ARTICLES EXPORTED ANNUALLY FROM
1821 TO 1852, INCLUSIVE.

Year.	Cotton.	Tobacco.	Rice.	Breadstuffs.
1821	\$20,157,484	\$5,648,962	\$1,494,307	\$12,341,901
1822	24,035,058	6,222,838	1,553,482	13,886,856
1823	20,445,520	6,282,672	1,820,985	13,767,847
1824	21,947,401	4,855,566	1,882,982	15,059,484
1825	36,846,649	6,115,623	1,925,245	11,634,449
1826	25,025,214	5,347,208	1,917,445	11,303,496
1827	29,359,545	6,577,123	2,343,908	11,685,556
1828	22,487,229	5,269,960	2,620,696	11,461,144
1829	26,575,311	4,982,974	2,514,370	13,131,858
1830	29,674,883	5,586,365	1,986,824	12,075,430
1831	25,289,492	4,892,388	2,016,267	17,538,227
1832	31,724,682	5,999,769	2,152,631	12,424,703
1833	36,191,105	5,755,968	2,744,418	14,209,128
1834	49,448,402	6,595,305	2,122,272	11,524,024
1835	64,961,302	8,250,577	2,210,331	12,009,399
1836	71,284,925	10,058,640	2,548,750	10,614,130
1837	63,240,102	5,795,647	2,309,270	9,588,359
1838	61,556,811	7,392,029	1,721,819	9,636,650
1839	61,238,982	9,832,943	2,460,198	14,147,779
1840	63,870,307	9,883,957	1,942,076	19,067,535
1841	54,330,341	12,576,703	2,010,107	17,196,102
1842	47,593,464	9,540,755	1,907,387	16,992,876
1843	49,119,806	4,650,979	1,625,726	11,204,123
1844	54,063,501	8,397,255	2,182,468	17,970,135
1845	51,739,643	7,469,819	2,160,456	16,743,421
1846	42,767,341	8,478,270	2,564,991	27,701,121
1847	53,415,848	7,242,080	3,605,896	68,701,921
1848	61,998,294	7,551,122	2,331,824	37,472,751
1849	66,396,967	5,804,207	2,569,262	38,155,507
1850	71,984,616	9,951,023	2,631,557	26,051,373
1851	112,315,317	9,219,251	2,170,927	21,948,651
1852	87,965,732	10,031,283	2,470,029	25,857,027

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NOTE.—The last five chapters of this work having been written since its first publication, there are no references to them in the foregoing Index. Copious references to these chapters, however, will be found in the Table of Contents, pages xix, xx.

